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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 IN RE:

4 APPLICATION OF NATALIA POTANINA

14-MC-31

14-MC 57

5 -----x

6 New York, N.Y.

7 June 17, 2015

10:10 a.m.

8 Before:

9 HON. LORETTA A. PRESKA

10 District Judge

11 APPEARANCES

12 ALSTON & BIRD LLP

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(In open court)

THE COURT: Is counsel for petitioner ready?

MR. GEERCKEN: Yes, your Honor. Karl Geercken from Alston & Bird on behalf of the petitioner, Natalia Potanina.

THE COURT: Good morning. Counsel for Mr. Aliev.

MR. CARDOZO: Michael Cardozo, Proskauer Rose.

THE COURT: How does your client pronounce his name, please?

MR. CARDOZO: Mr. Aliev.

THE COURT: Aliev. Thank you so much.

Counsel, would you like to give me some idea of how you want to proceed, please. Mr. Aliev is going to go first, right?

MR. GEERCKEN: I was thinking, your Honor, that we were going to give a short opening statement, and I would leave it up to Mr. Cardozo if he would like to follow with an opening, and then we could take testimony from Mr. Aliev. We have not discussed whether Mr. Cardozo wanted to put him on the stand on his motion for reconsideration first, or whether we should just begin with a cross of him. I am prepared to begin with a cross of Mr. Aliev.

THE COURT: Which probably is what we should do, right?

MR. CARDOZO: I would suggest, your Honor, as I understand it, you have granted the motion for reconsideration,

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Opening - Mr. Geercken

1 the motion --

2 THE COURT: That's what we're doing now.

3 MR. CARDOZO: The question is now, does he or does he
4 not have control. And so I agree with brief opening statements
5 from each side following by calling Mr. Aliev to the stand. I
6 would think the most efficient way is for me to then follow
7 with the cross and then whatever redirect there may be.

8 THE COURT: Right. OK. And I know --

9 MR. CARDOZO: Excuse me, your Honor.

10 THE COURT: Go ahead.

11 MR. CARDOZO: And then in the course of things I think
12 we'll handle all the exhibits. We've been able to resolve most
13 of the issues. And then maybe at the end, maybe a little
14 mop-up with other exhibits.

15 THE COURT: OK. Also, I don't see any reason for you
16 to take the time to read into the record all that deposition
17 testimony. I have the designations and the objections, and we
18 can read it ourselves just as well.

19 All right. So that sounds like a plan.

20 Would you like to start.

21 MR. GEERCKEN: Absolutely, your Honor. Would you like
22 me to start over by the podium?

23 THE COURT: Anyplace you want to be, anyplace you're
24 comfortable with is fine with me.

25 MR. GEERCKEN: Well, that's kind of you, your Honor.

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Opening - Mr. Geercken

1 I'll start right here, then.

2 Thank you, your Honor, for making yourself and the
3 court available to us. As you know, we represent the
4 petitioner, Natalia Potanina, in connection with the 1782
5 matter.

6 The sole issue, as you have said, your Honor, before
7 the Court today is whether Mr. Aliev has control over the
8 documents that he was ordered to produce back in June of last
9 year. Mr. Aliev is here on a motion for reconsideration, and
10 he bears a heavy burden to overcome the Court's prior rulings
11 with respect to this matter. He has to come forward with new
12 evidence. What we have seen and what we will I think
13 demonstrate today is that Mr. Aliev has come forward with the
14 same argument, that he just does not have control, he does not
15 have access to. And he has not come forward with new evidence
16 that shows that he does not have the legal right or control or
17 access to the documents and information he was ordered to
18 produce. In fact, we believe that the evidence that has been
19 produced and that is now being submitted before your Honor
20 today will demonstrate that petitioner's argument has only
21 become stronger. And we'll demonstrate that Mr. Aliev has the
22 legal right and/or ability to access information that is
23 responsive to the materials that he was ordered to produce.

24 Your Honor, I think the evidence will show, and I
25 won't get into too much detail, but I think the evidence today

1 will show that Mr. Aliev remains a vice president of Interros
2 and that he was directed to perform certain representative
3 functions of the company in connection with foreign investors
4 and funds since August of 2010. We believe that now we have
5 certain new evidence, we have a regulation that defined the
6 scope of his authority and defined what his obligations and
7 rights as a vice president were. And the regulation makes very
8 clear, in Section 3.3, that the vice president shall among
9 other things represent the company in relations with public
10 authorities, which we submit include courts and U.S. courts.
11 And we submitted expert testimony on that. And indeed you'll
12 note that our expert, Mr. Kulkov, included that in his expert
13 report and testified to that. I think it's at paragraph 22 of
14 his report. And while the opposition expert took issue with
15 some aspects of Mr. Kulkov's report, he did not raise any issue
16 with respect to Mr. Kulkov's opinion as to the vice president's
17 role and responsibility to represent the company with public
18 authority.

19 Also, Section 3.3 of the regulation makes clear that
20 the vice president shall participate -- and the word is
21 "shall" -- participate in negotiations with major
22 counterparties and parties in Russia and abroad. And we have
23 elicited expert testimony that even if, assuming arguendo that
24 Mr. Aliev really didn't doing anything right now, as he
25 contends, the expert for Mr. Aliev conceded that if he were to

1 engage in a negotiation with a major counterparty, he would
2 possibly need access to non-public confidential information.

3 Now, interestingly, the regulation is also in accord
4 with Russian law. You may have seen in the expert reports that
5 the experts talk about Article 22 of the Russian Labor Code.
6 And that provides, in essence, that an employer must provide an
7 employee with all the necessary equipment, instruments, and
8 documents that are needed to perform his duties.

9 3.5 of the regulation says vice presidents of the
10 company have the right to receive necessary information and
11 documents about the activities of the company. And they can
12 give the employees mandatory instructions that are aimed at
13 exercising their authorities.

14 So we think that this evidence and other evidence that
15 we'll discuss demonstrates that control and access to the
16 documents is available to Mr. Aliev and that he does have a
17 legal right to these documents.

18 We will also show, I think, that Mr. Aliev did not
19 take diligent steps to obtain the information and seek to
20 obtain the information at issue. As the Court knows, the
21 order, the initial order in this case directing him to provide
22 the documents at issue was in June of last year. There was no
23 activity in response to that. It was only in October of last
24 year when the Court had to reconfirm its order that Mr. Aliev
25 began to take certain actions. And at that time we submit that

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1 he went to management, he went to those people that were
2 beholden to Mr. Potanin and that had to report, either directly
3 or indirectly, to Mr. Potanin, and he got the answer that he
4 expected to receive. And he likewise went to Mr. Potanin, who
5 is an interested party in the dispute with his wife,
6 Mrs. Potanina, and got that same rejection.

7 THE COURT: To whom would you suggest he should have
8 gone?

9 MR. GEERCKEN: It's our position, your Honor, that he
10 could have and should have gone to employees of the company
11 that would have been able to give him access to e-mail and give
12 him access to other documents. Under 3.5, if he wanted to get
13 information relating to foreign investments of Interros, all he
14 had to do was ask an employee. Now, he will say, I did not
15 have any interaction with anybody from Interros in my role as
16 vice president. I think he's going to have to admit that
17 Altpoint interacts with Interros every day. He well understood
18 individuals within the organization could have gotten him
19 access to this information.

20 Now, it is true, your Honor, that had this come up to
21 Mr. Potanin, I suspect that Mr. Potanin may have, if he became
22 aware of it, tried to shut it down. But we've cited authority
23 that makes clear that where companies try to do this, that is
24 not appropriate. The *IBM* case that we have cited made clear
25 where a company went to the length of issuing a resolution

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1 saying that the individual in question cannot get access to any
2 information, the court found that that was improper and
3 directed compliance with the subpoena and award.

4 THE COURT: What happened next? Forgive me for not
5 having followed the entire case, but what happened next? Was
6 the employee locked up or what?

7 MR. GEERCKEN: I don't believe the case discussed it.
8 I'm looking to Ms. Wessels. I don't know if you recall --

9 THE COURT: I know that look down the table.

10 MR. GEERCKEN: Yes.

11 THE COURT: You can tell me later.

12 MR. GEERCKEN: Yes. I'm not quite sure that it's
13 clear from the case, but Ms. Wessels or I will let you know.

14 All right. So in short what we're saying is that
15 Aliev, his access to information, his right to information is
16 not subject to the whims of Interros or Mr. Potanin. It's
17 governed by well-settled jurisprudence. Does he have the legal
18 right or ability to obtain the documents in question? If he
19 does, he should be ordered to produce.

20 What I'll finish with is that it is clear that the
21 regulation, the contract, Article 22, there is agreement by the
22 experts that these are the controlling documents and
23 controlling information relating to the issue in question.
24 And, your Honor, I respectfully submit that they demonstrate
25 that Mr. Aliev continues to have the legal right to obtain the

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1 information in question and should be compelled to produce that
2 information in accordance with your prior order.

3 THE COURT: Would you talk to me about how you see the
4 burden of proof at this stage. A motion to reconsider has been
5 granted and that's what we're doing here.

6 MR. GEERCKEN: Right.

7 THE COURT: So now where are we? I mean, in the
8 ordinary course, I think the petitioner would have the burden
9 of demonstrating the respondent's ability to respond. Right?

10 MR. GEERCKEN: I think that's right, your Honor. In
11 the ordinary course a petitioner seeking production of the
12 information, we assume, has the burden of showing that there's
13 a legal right or ability to obtain the information. And we
14 believe the evidence demonstrates that. What I'm bringing up
15 with respect to the motion for reconsideration is that the only
16 new evidence that they're bringing up with respect to this
17 matter is an assertion that their counsel made back in May and
18 June of last year. He just doesn't have access, he doesn't
19 have, he can't get the information. We talked about that. We
20 discussed a website at that point that showed that he was a
21 vice president and only vice president of the company. We
22 talked about jurisprudence under U.S. law that makes clear that
23 officers of the corporation do have the right to obtain
24 information of the company. And we have now determined under
25 Russian law that where there is an officer of the company, he

1 is entitled to obtain information that is relevant to his
2 duties. So it's similar to the United States. And I think the
3 same result should obtain.

4 THE COURT: All right. Thank you.

5 MR. GEERCKEN: Thank you, your Honor.

6 THE COURT: Mr. Cardozo.

7 MR. CARDOZO: Thank you, your Honor. I would like to
8 start by pointing out that in your January 9th opinion, you
9 granted the motion for reconsideration and you said that "the
10 request is granted for an evidentiary hearing," and I'm reading
11 at page 7 of your opinion, "on the factual issue of whether
12 Aliev has access to the requested documents." So I think it's
13 clear the burden of proof is on the petitioner to demonstrate
14 that in fact Mr. Aliev had possession, custody, or control of
15 the documents. And we believe that it is clear he does not.

16 Now, Mr. Geercken has said and the petitioners have
17 said that they satisfy their case because Mr. Aliev is a party
18 to an employment agreement that says he's a vice president of
19 Interros -- that's correct, that he is, and that he's on the
20 Interros website as a vice president -- and therefore, because
21 the contract incorporates the regulations that we just heard
22 about, he has the ability to get the documents in question.

23 But that is not enough. You will hear Mr. Aliev
24 explain to you that, with the exception of the one transaction
25 that he had responsibility for because of his past dealings at

1 Interros and his past dealings with the company in question,
2 since 2010, Mr. Aliev has done nothing for Interros and has not
3 been asked to do anything for Interros.

4 Significantly, not only has his salary declined to
5 about, under his documents, to about \$700, U.S. dollars, a
6 month; he has not collected that salary for over three years,
7 before, long before the subpoenas were served.

8 He has no assistants. He has nobody who reports to
9 him. He has no task that he's been asked to perform. He
10 doesn't have an e-mail account, hasn't had one for years. He
11 hardly knows anybody at Interros. There's no one who reports
12 to him. He doesn't have bank-signing authority, check-signing
13 authority, doesn't get board minutes. And those are the facts
14 that you have to look at. It's not just a label, the cases
15 say.

16 Now, under the law, these cases say, you have to
17 demonstrate factually, whether you have a title or a non-title,
18 that that title gives you control. Yes, the regulations say
19 that the vice president has the kind of potential power that
20 Mr. Geercken alluded to. But, and this goes to the difference
21 between the two experts, our expert says, that's what the
22 regulations say, but that doesn't mean you have the power to
23 demand the documents if you haven't been asked to exercise the
24 power. He has not been asked to represent foreign investors.
25 He has not been asked to represent Interros before public

1 authorities, and all the other provisions in the regulations.
2 And our expert says, under those circumstances, the theoretical
3 ability that you get documents if you're asked to perform a
4 duty, that's not for your Honor to say, even though I haven't
5 been asked in five years to do anything, to demand that they
6 give you the documents. That's not what Russian law is.

7 And going back to U.S. law, factually, the question
8 you have to ask, that should be asked: Does he as a practical
9 matter have control?

10 Now, as to that matter, there can't be any question,
11 and Mr. Aliev will testify to this, not only didn't he have
12 anybody who reports to him, he didn't know who to call other
13 than the top people at the company. That's not who -- he
14 doesn't deal with, he hasn't dealt with anyone else. Their
15 expert said he should have called someone in the IT department.
16 He doesn't know anyone in the IT department.

17 So who did he call, what did he do after he
18 understood, under your order, that he had to get the documents
19 from Russia? He called the general counsel of the company,
20 whom he's known probably as long as Mr. Potanin. And he said,
21 Marianna, first name, I need the documents, Judge Preska has
22 ordered me to get the documents, and if I don't get the
23 documents I may be going to jail, I may be fined significantly.
24 And what did she say? I'm sorry, you are not going to get the
25 documents, you are not entitled to the documents because you

1 haven't done anything as a vice president for all this time, I
2 sympathize with you and I hope the Court understands.

3 And so then he sent an e-mail to her reiterating his
4 request. And then I personally called her, and I said the same
5 thing. And I got the same response.

6 So then what did he do? He called the president and
7 principal investor of the company, Mr. Potanin, and he made the
8 same request.

9 THE COURT: Your client's opponent.

10 MR. CARDOZO: Yes.

11 And the response was no. And then he got a letter
12 from the CEO of the company saying no.

13 Your Honor, there is nothing more he could do -- with
14 one exception. According to their expert, he could have
15 brought suit in Russia.

16 Number one, our expert, unlike their expert, says, you
17 would have lost, for exactly the same reasons, because our
18 expert says you're not entitled to them. And number two, your
19 Honor, and I'm not trying to reargue the scope of 1782 with
20 you, but it's one thing to say that someone sitting in the
21 United States should push a button on a computer and get the
22 documents wherever they may be, analogous perhaps to your
23 *Microsoft* ruling; it's another thing to say that a third party
24 in a 1782 proceeding not only has to try to get the documents,
25 but has to hire a Russian lawyer and sue.

1 And Judge Chin when he was on the district court in
2 the case involving --

3 THE COURT: The Judge Chin case.

4 MR. CARDOZO: Yes.

5 -- said, in a much easier case, it would seem to me --
6 somebody's manager, accountant had refused to give the
7 respondent his requested documents. And the respondent kept
8 saying, give me, give me, give me. And the manager said, no,
9 no, no. And Judge Chin said, sorry, you can't expect him to do
10 any more. He didn't say, go sue him.

11 THE COURT: The major difference here is that
12 Mr. Potanin, petitioner's opponent in the underlying action,
13 seems to be controlling everything. He's certainly the head of
14 the company. The general counsel reports to him, obviously.
15 And asking him for these documents is probably not a useful
16 exercise.

17 MR. CARDOZO: Your Honor, yes. But first of all, the
18 rejection letter came from the CEO, not Mr. Potanin. But one
19 is president, one is CEO. But Mr. Potanin is certainly the
20 principal investor.

21 But there is nobody else he could have asked. He
22 doesn't know the IT people. He doesn't know the lower-level
23 people because he hasn't dealt with them for years. He called
24 the general counsel, whom he dealt with for years, and asked
25 for that. To force him under those circumstances to go to the

1 expense of going to Russia, hire a lawyer, when his lawyer has
2 said, you don't have a case in Russia, that's not what the law
3 is, your Honor. You have to look at the facts. And when you
4 add the facts I've just alluded to, to the fact that he has not
5 done anything for five years for this company -- yes, he has a
6 document that says he's the vice president, yes, the regulation
7 lists theoretical powers of a vice president, but he hasn't
8 exercised those powers, and according to our expert, if you
9 haven't exercised them, then the Article 22 that Mr. Geercken
10 referred to under Russian law, where you have to be given the
11 tools to carry out your functions, doesn't apply because he
12 hasn't been asked to carry out those functions.

13 And so therefore, your Honor, as I think you will hear
14 from Mr. Aliev and you'll see from our expert's report, he
15 lacks the legal control and he lacks the practical ability to
16 get the documents, and therefore the motion to compel should be
17 denied.

18 THE COURT: All right. Thank you.

19 Mr. Geercken, did you want to add anything at this
20 point?

21 MR. GEERCKEN: Your Honor, I'll just make a couple of
22 quick points. We have done a little bit of looking to see if
23 there's anything further on the *IBM* case, and we have not been
24 able to find -- it's a 1979 case and there's no subsequent
25 history noted. But we'll double-check and see if we can get

1 it.

2 THE COURT: Eventually they settled that case after,
3 what, ten years of litigation or something?

4 MR. GEERCKEN: I believe that's right, your Honor.

5 I think one case has been noted, the *Shcherbakovskiy*
6 case, that has been cited by Mr. Aliev's counsel, and in that
7 case the court determined that a persistent failure and refusal
8 to produce documents should be met with the strongest sanction
9 available. And in that case, there was a determination that
10 Russian law did not preclude or prevent a party from being
11 compelled to produce information.

12 So I think the case law is quite clear that companies
13 cannot just circumvent the law by saying it's just not possible
14 for you to get the information.

15 THE COURT: All right. Shall we begin.

16 MR. GEERCKEN: That would be good. Thank you, your
17 Honor. If it would please your Honor, we would like to call
18 Mr. Aliev to the stand.

19 THE COURT: Yes, sir.

20 GUERMAN ALIEV,

21 called as a witness by the plaintiff,

22 having been duly sworn, testified as follows:

23 THE COURT: Counsel.

24 MR. GEERCKEN: Thank you, your Honor. If it would
25 please the Court, we would like to provide Mr. Aliev with a

1 couple of binders that we might ask him to look through as he
2 is testifying. So if we could approach, we would like to do
3 that.

4 THE COURT: Yes.

5 MR. CARDOZO: Those are the three binders?

6 MR. GEERCKEN: Yes, that is correct.

7 DIRECT EXAMINATION

8 BY MR. GEERCKEN:

9 Q. OK. Good morning, Mr. Aliev.

10 A. Good morning.

11 Q. You are a current resident of the United States; is that
12 correct?

13 A. That is correct.

14 Q. And you presently maintain a title at Interros; is that
15 correct?

16 A. That is correct.

17 Q. And you are in fact a vice president of Interros, correct?

18 A. You're talking about right now. Yes.

19 Q. Yes. And you are the sole vice president of Interros,
20 correct?

21 A. It appears to be, as I reviewed the materials as part of
22 this motion.

23 Q. Right. And you've held that position since August of 2010;
24 is that correct?

25 A. That appears to be what the documents say.

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Aliev - direct

1 Q. And the president of Interros is Vladimir Potanin?

2 A. I believe so.

3 Q. And you understand that Vladimir Potanin is the husband, or
4 the former husband, of the petitioner, Natalia Potanina,
5 correct?

6 A. I understand that.

7 Q. And you understand that Mr. Potanin is the principal
8 investor in Interros, correct?

9 A. That's my understanding.

10 Q. Right. And you understand that -- you also hold a role
11 with Altpoint; is that correct?

12 A. That is my main role.

13 Q. Yes. And Interros is a major investor in Altpoint
14 Holdings; is that correct?

15 A. Interros is an investor in Altpoint's funds.

16 Q. And it is the major significant investor in those funds,
17 correct?

18 A. That is correct.

19 Q. And is it correct that employees of Altpoint from time to
20 time have to coordinate and communicate with employees of
21 Interros?

22 A. As any investment manager communicates on a regular basis
23 with investors, Altpoint employees do the same.

24 Q. Correct. And from time to time in your capacity as --
25 president of Altpoint?

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Aliev - direct

1 A. I am the CEO and partner.

2 Q. CEO and a partner. And from time to time you have to
3 communicate with representatives of Interros, correct?

4 A. From time to time I communicate, as my counsel stated, with
5 Mr. Potanin and the GC.

6 Q. Very good. Now, am I correct that as early as 2003, you
7 began to work at entities that were owned, directly or
8 indirectly, by Mr. Potanin?

9 A. I worked in a senior capacity at Rosbank that was, at the
10 time when I joined the bank in 2003, majority owned by
11 Interros.

12 Q. And you were the head of all investment banking at Rosbank,
13 correct?

14 A. I was the head of investment banking at Rosbank, that is
15 correct.

16 Q. And you stayed at Rosbank until 2008; am I correct?

17 A. Approximately that year, I believe so.

18 Q. And from there you went to Norilsk Nichols for a short
19 time, correct?

20 A. For a very short time, a couple of months, correct.

21 Q. And is it your understanding that Norilsk Nickel is owned,
22 directly or indirectly, by Interros?

23 A. That is incorrect. Interros is a significant shareholder
24 in Norilsk Nickel, but it is not owned by Interros.

25 Q. But it is a significant shareholder in Norilsk.

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Aliev - direct

1 A. Correct.

2 Q. And was at the time, correct?

3 A. Correct.

4 Q. And you were tasked with handling international mergers and
5 acquisition work for Norilsk, correct?

6 A. I never settled into the role. It was two months. I came
7 on board because the then CEO of Rosbank transitioned to a role
8 in Norilsk, and then he abruptly left and I abruptly left. So
9 there was -- I didn't set up an office.

10 Q. So the idea was, as you testified earlier, that you would
11 handle the M&A activity.

12 A. The idea was that I would handle Norilsk's international
13 M&A.

14 Q. And then after the brief stay at Norilsk, you went to
15 Interros; is that right?

16 A. Correct.

17 Q. And your initial title at Interros was deputy CEO; is that
18 correct?

19 A. That is correct.

20 Q. And that was in 2008; is that correct?

21 A. Yes.

22 Q. All right. And your functional role at that time was
23 overseeing Interros's foreign investments; is that correct?

24 A. The functional role was to oversee investments, and I
25 focused on the international investment, to be more precise.

1 Q. So is it fair to say that one of your roles as deputy CEO
2 was to oversee Interros's foreign investments?

3 A. There is a big distinction between overseeing investments
4 as a deputy CEO of Interros and being a fund manager at a third
5 party, huge distinction. But my role at Interros was to
6 evaluate the performance of other fund managers that Interros
7 invested with.

8 Q. OK. When you testified at deposition earlier, I asked
9 you --

10 A. I'll explain.

11 Q. -- what your position was at Interros, and at that time you
12 said your functional role was overseeing Interros's foreign
13 investments. Is that accurate?

14 A. Let me be more precise and more manifest. The role was to
15 evaluate the performance of funds that Interros invested with
16 other fund managers.

17 Q. And that included --

18 THE COURT: What was the foreign part of it? Foreign
19 funds?

20 THE WITNESS: Foreign funds. I can't give you the
21 name of the funds, but they would be major funds in the United
22 States and in Europe.

23 Q. And when you applied for a job at Interros, you didn't have
24 to submit a formal application; is that correct?

25 A. I don't remember exactly how the process worked out. I

1 could have filled out a form. I don't remember. It's not
2 inconceivable.

3 Q. We discussed this at your deposition, and maybe, Alex, you
4 have a copy of the deposition.

5 MR. GEERCKEN: May we approach with a copy of the
6 deposition, your Honor?

7 THE COURT: Yes.

8 A. Thank you.

9 Q. At page 24, line 16, I believe I asked you -- I'll let you
10 get there.

11 A. Yes.

12 Q. "Q. Did you apply for the job or did they offer you the
13 job?"

14 And you said, "I don't remember the sequencing. I
15 don't think there was a formal application per se."

16 Correct?

17 A. That is exactly what I said at the deposition. And I am
18 telling you, as this was seven years ago, I don't remember
19 exactly what the process was.

20 Q. But you knew people at Interros from your time working at
21 Rosbank, correct?

22 A. Most certainly.

23 Q. There were Interros representatives on the Rosbank board
24 who you reported to when you worked at Rosbank, correct?

25 A. The managers report to the board as an entity, not to

1 specific board members. As Rosbank at the time was majority
2 owned by Interros and as a member of the management board of
3 Rosbank, we reported to the board.

4 Q. Right. And there were Interros representatives on the
5 board of Rosbank at that time.

6 A. Correct.

7 Q. And one of those board members was Marianna Zakharova,
8 correct?

9 A. Yes. At some point she joined, I believe not from the very
10 beginning but later on.

11 Q. And Ms. Zakharova later became Interros's general counsel,
12 correct?

13 A. She was an internal -- an attorney, an internal lawyer at
14 Interros at the time. I'm not sure exactly what her Interros
15 title was.

16 Q. And Interros, how would you describe the business of
17 Interros?

18 A. Interros is a holding company that makes investments
19 directly in other companies and investments in other funds,
20 managed by fund managers. So it acts as a direct investor and
21 it acts as a sort of fund of funds, to be technical about the
22 investment process.

23 Q. And you understand that it is a very large holding company,
24 correct?

25 A. It is a large company.

1 Q. And what is the extent, in terms of dollars, to the best of
2 your knowledge, of its investments?

3 A. Would you like for me to say what I thought it was at the
4 time or what it is now? Because I don't know what it is now,
5 as I managed some of Interros's funds as a fund manager. What
6 it was at the time I can't really attest to exactly, and I can
7 speak about what I was doing.

8 Q. OK. Can you tell us at the time that you were active at
9 Interros as the deputy CEO, that period of time, what was the
10 amount?

11 A. Interros was as a -- I don't know the amount, but Interros
12 was a substantial investor in Norilsk Nickel. It had media
13 assets, it had banking assets where I was an executive, and
14 other smaller investments.

15 Q. OK. And is it fair to say that its investments were in the
16 billions of dollars?

17 A. Fair to say.

18 Q. And you said you were not familiar with the structure of
19 Interros.

20 A. I never had to get to the legal structure of the entity. I
21 concerned myself with evaluating performance, like I said, of
22 Interros's foreign investments. I knew who my seniors were and
23 I knew what I needed to do for my job.

24 Q. And in fact your testimony, when we talked earlier, was
25 that you didn't care about the legal structure of Interros.

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Aliev - direct

1 A. It was for the most part irrelevant to me.

2 Q. And as the deputy CEO, you reported to the CEO at that
3 time, correct?

4 A. That is correct.

5 Q. And who was the CEO at that time?

6 A. When I joined Interros in 2008, the CEO of Interros was
7 Mr. Klishas, K-l-i-s-h-a-s.

8 Q. And the CEO, he reported to the principal shareholder,
9 correct?

10 A. I really don't want to infer what their relationship was.
11 I reported to Mr. Klishas, and I had interactions with
12 Mr. Potanin.

13 Q. I would like to draw your attention back to your deposition
14 transcript at page 33, line 24.

15 A. Looking at it.

16 Q. Can you read --

17 A. "He was answering to the principal shareholder, I would
18 imagine."

19 Q. So you understood, you believed that the CEO reported to
20 the principal shareholder.

21 A. The reason I put the qualifier in there is that I cannot
22 speak for him. It would be accordant with what I observed.
23 But I can't speak as to his formal report. I'm sorry.

24 Q. But it was consistent with what you observed.

25 A. It is consistent with what I've observed, correct.

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Aliev - direct

1 Q. And the principal shareholder, you understood, was
2 Mr. Potanin.

3 A. Correct.

4 Q. And one of your primary responsibilities at the time was
5 evaluating Interros's largest out-of-Russia investment,
6 correct?

7 A. Correct.

8 Q. That was the Stone Tower investment?

9 A. Again, for clarity, Stone Tower is a U.S. fund manager,
10 with whom Interros invested. And Stone Tower made decisions to
11 invest independent of Interros's opinion, just like, counselor,
12 you would give your funds to Prudential and they would act --
13 and they would do what they want to do, and then you would
14 evaluate the returns.

15 Q. And you were evaluating the investments of Stone Tower; is
16 that correct?

17 A. Correct.

18 Q. And from time to time in your role as deputy CEO you would
19 meet with Mr. Potanin, correct?

20 A. Absolutely.

21 Q. And those meetings occurred approximately once a month,
22 right?

23 A. Something like that.

24 Q. And most of the time that was just the two of you, correct?

25 A. That I cannot attest to. There could be other people in

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Aliev - direct

1 the meeting. It could be a group meeting, or it could be a
2 one-on-one.

3 Q. So there was a variety of meetings. Sometimes you were
4 alone with him and sometimes other colleagues would join you.

5 A. True.

6 Q. And your relationship with Mr. Potanin sometimes included
7 social functions, correct?

8 A. Invitation only.

9 Q. And in fact you attended a birthday party for Mr. Potanin,
10 correct?

11 A. As did hundreds of other people.

12 Q. But you were invited to attend that by Mr. Potanin.

13 A. Correct -- no, by his office.

14 Q. Now, in 2009 you moved to the United States. Is that
15 correct?

16 A. Correct.

17 Q. And you moved to the United States to start Altpoint; is
18 that correct?

19 A. That is correct.

20 Q. And Altpoint is really the new name for Stone Tower; is
21 that right?

22 A. It's a new team of fund managers. I brought on board my
23 own team that I hired in the United States, and it became a new
24 fund manager. But it did take some of Stone Tower investments
25 to perform functions on them, as fund managers do.

1 THE COURT: What do you mean by "took"?

2 THE WITNESS: Transferred. They were transferred
3 into -- the Stone Tower funds were transferred into Altpoint
4 funds.

5 THE COURT: For payment or just transferred?

6 THE WITNESS: No, the actual assets, the actual
7 corporate entities. So, for example, if Stone Tower had an
8 investment into a crane company out of Pennsylvania, that we
9 managed that investment now to make HR decisions, spinoffs,
10 acquisitions into that investment became my responsibility, as
11 a third-party manager of Interros's investments.

12 THE COURT: Essentially you were taking over -- you
13 were stepping into the shoes of Stone Tower with respect to
14 that investment.

15 THE WITNESS: Correct.

16 A. And then I renamed it, because, as fund managers, we're
17 working for our brand and recognition, so I renamed it to be
18 called Altpoint.

19 Q. That was a seeding of a private equity venture, correct?

20 A. Altpoint is a private equity fund, SEC-registered private
21 equity fund.

22 THE COURT: What was the verb you used, s-e-e-d-i-n-g
23 or C-e-d-i-n-g.

24 THE WITNESS: Seeded, s-e-e-d.

25 THE COURT: Thank you.

1 Q. And this was Interros's largest out-of-Russia investment,
2 correct? Investment through Altpoint?

3 A. It is certainly a large investment. Whether it's
4 Interros's largest investment now I don't know. But it was a
5 large, Interros's large investment.

6 Q. But when you became the CEO of Altpoint, you retained the
7 position, you retained a position at Interros, correct?

8 A. I retained a title of Interros.

9 Q. And you retained that at your request, right?

10 A. I retained that as my request, correct.

11 Q. And in fact you wanted it as a credential, correct?

12 A. I asked Interros to -- for me to be able to retain a title
13 as Altpoint was not a recognizable name in the United States,
14 and I thought it would serve me well to present that credential
15 and present that connection, when I went about the business of
16 sourcing investments.

17 Q. And that was because Interros was a large internationally
18 recognized entity, correct?

19 A. That was my belief.

20 Q. So that was a benefit to you, you believed, in having that
21 credential.

22 A. Correct.

23 Q. Now, let's talk a little bit about Altpoint. You became
24 the majority owner of the management company, correct?

25 A. I am a majority owner, I became the majority owner of the

1 management company, correct.

2 Q. In fact you own 99 percent of the management company,
3 correct?

4 A. Something like 90 percent.

5 Q. 90 percent, OK. And your compensation is based on -- is it
6 based on your ownership of the management company?

7 A. It doesn't quite work that way. With all fund managers in
8 the United States, SEC-registered fund managers in particular,
9 investors that entrust us with funds that we manage pay a fee
10 to the management company, and that fee is expensed to pay for
11 the way we go about our business -- office leases,
12 transportation, and compensation.

13 Q. And the fee is based on a percentage of the assets under
14 management; is that correct?

15 A. As a rough guideline, yes. But there are arguments about
16 what the fee should be between the fund managers and investors
17 that invest in funds.

18 Q. And what is that percentage that you're entitled to?

19 A. That percentage typically and at Altpoint could be anywhere
20 between 1 1/2 percent to 2 1/2 percent of either committed
21 funds or investments or invested funds based on the life of the
22 fund.

23 Q. And the funds, the Interros funds under management at
24 Altpoint, as the CEO of the management company, what is the
25 extent of these funds?

1 A. This would be, I guess -- so we have an SEC filing every
2 year that we update. I'm not sure exactly what the last one
3 was, but in the beginning when I took over the portfolio it was
4 somewhere in between 2 to 3 hundred million dollars of overall
5 funds that Altpoint managed.

6 Q. And what time period was that?

7 A. That's when I transitioned to become the founder of
8 Altpoint, in 2009.

9 Q. And what is the amount of assets under management, of
10 Interros assets under management now, at Altpoint?

11 A. I am trying to figure out what part of that would be
12 confidential. Usually funds don't disclose that.

13 MR. GEERCKEN: We have a protective order in this case
14 and we can -- I designate this portion of the transcript as a
15 confidential document.

16 THE WITNESS: Can I seek the advice of my counsel?

17 MR. CARDOZO: I think, Mr. Aliev, that we both deem it
18 confidential, and I think if you know the answer you can
19 answer.

20 THE COURT: If what?

21 MR. CARDOZO: If he knows the answer he should answer
22 it.

23 (Page 32 sealed by order of the court)
24
25

1 THE COURT: Total.

2 THE WITNESS: Total.

3 THE COURT: OK.

4 All right. Go ahead, counsel. Did you want to follow
5 up on that?

6 Q. And you are also an investor at Altpoint, correct?

7 A. In any fund management company, senior employees become
8 investors in the same transaction but in the same fund as the
9 third-party investors whose funds we manage. That would be
10 typical of any fund manager -- Blackstone, Carlyle, and
11 Altpoint.

12 THE COURT: Let me just be sure I understand the
13 Interros portion. Interros is, at the least, a substantial
14 investor in --

15 THE WITNESS: The funds.

16 THE COURT: -- Altpoint's funds.

17 THE WITNESS: Correct. Not in the management -- well,
18 in the management company for a tiny bit because I own 90
19 percent of it, but they are a substantial investor in Altpoint
20 as well, correct.

21 Q. And I think you said that -- at your earlier deposition --
22 we'll look for the cite -- that you believed that Altpoint,
23 that the Interros investments in Altpoint funds constituted
24 roughly 90 percent of those investments?

25 A. Something like that number. In that order of magnitude.

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1 Q. So it's fair to say that Interros is the dominant investor
2 in Altpoint funds, correct?

3 A. That is a fair statement.

4 Q. And your performance at Altpoint is evaluated by
5 Mr. Potanin and Interros's controller, Mrs. Zinovieva --

6 MR. GEERCKEN: And I'll help with you that, madam
7 court reporter. I think it's Z-i-n-o-v-i-e-v-a.

8 A. Interros has a formal controlling function. And Altpoint
9 as a fund manager has formal reporting requirements to the
10 investors. We produce audited financials for the funds
11 annually, very typical of any other fund manager. And once
12 every so often we need to explain the financials and, by virtue
13 of that, we are interacting with a very formal Interros
14 controlling function. And separately from that, like you
15 alluded to, I do talk to Mr. Potanin from time to time to
16 present the performance, by Altpoint.

17 Q. And -- forgive me. I didn't mean to interrupt you, sir.
18 If I turn to page 45 of your transcript, we talked about
19 this --

20 A. Depo transcript, right?

21 Q. Yes. At line 2, I asked you about the nature of your
22 interaction with Mr. Potanin about the Altpoint business
23 matters.

24 A. Right.

25 Q. And you said you report to him and other people that he

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1 appointed to evaluate your performance. Right?

2 A. Correct.

3 Q. And I asked who the other folks are that evaluate your
4 personal performance. And you identified Ms. Zinovieva,
5 correct?

6 A. Correct, who is the CFO and controller of Interros.

7 Q. Very good. And your responsibility at Altpoint is to
8 manage, as a fiduciary investment owner, investments of
9 Interros, correct?

10 A. Fiduciary to all of the investors who invest with Altpoint.

11 Q. And certainly Interros is the large investor.

12 A. Correct. But also some -- complete independence, and they
13 would have the same treatment.

14 Q. Now, there came a time when Altpoint hired a relative of
15 Mr. Potanin, correct?

16 A. Correct.

17 Q. And in fact it was his son, right?

18 A. You know better than me.

19 Q. Well, sir, I didn't --

20 A. That is correct.

21 Q. -- run Altpoint. And the son is Ivan Potanin, right?

22 A. Correct.

23 Q. How long did Mr. Ivan Potanin stay with Altpoint?

24 A. He was a low-ranking analyst. His tenure probably was
25 approximately about a year.

1 Q. Right. And do you recall that timing, when that year was?

2 A. Doesn't fall off the tongue. About a year and a bit ago.

3 Q. A year and a bit ago. Isn't it correct that, just shortly

4 after Mrs. Potanin commenced legal proceedings against

5 Mr. Potanin, that Ivan Potanin was terminated at Altpoint?

6 A. The fact that it did or not dovetail in time has nothing do
7 with his performance, I guess, or his employment at Altpoint.

8 Q. But he was terminated.

9 THE COURT: Ms. reporter, would you read the question
10 back to the witness, please.

11 (Record read)

12 A. It appears now that that was the case. I didn't even know
13 that there was a case against Potanin at the time.

14 THE COURT: It was only --

15 THE WITNESS: I don't remember the exact timing. It
16 was about -- in the same year.

17 Q. Thank you, Mr. Aliev.

18 A. You're welcome.

19 Q. Now, you received a subpoena in connection with this matter
20 roughly in February of last year; is that correct?

21 A. That is -- Altpoint and me personally received the original
22 subpoena in February of last year, correct.

23 Q. Right. And you got that subpoena directly from a law firm;
24 is that correct?

25 A. I got that from the receptionist, who signed for it.

1 Q. And then a law firm contacted Altpoint in connection with
2 that subpoena, correct?

3 A. I'm not sure exactly what happened. We hired counsel when
4 the subpoena ended up on my desk.

5 Q. And the counsel that was hired was the Debevoise firm,
6 correct?

7 A. The same counsel that, that put together four of the
8 different foundation documents for the company.

9 Q. And when we talked at your deposition about who paid the
10 counsel fees for Debevoise, you said you didn't know who paid
11 those fees.

12 A. Well, I did refresh my memory. Altpoint paid those fees.

13 Q. Altpoint pays those fees, correct?

14 A. Correct.

15 Q. That what your testimony is now?

16 A. Correct.

17 Q. And when did they start paying those fees?

18 A. I don't know. But my counsel is telling me that we're
19 paying Debevoise' fees.

20 Q. And who did you check that with?

21 A. Altpoint's GC.

22 Q. And you don't know when Altpoint began paying those fees;
23 is that correct?

24 A. Don't know.

25 Q. Is Altpoint paying Debevoise, did Altpoint pay Debevoise's

1 fees with respect to your personal subpoena? Did you check on
2 that?

3 A. So, counsel, to be clear, the original representation for
4 Altpoint and me was through Debevoise. When it became clear --
5 and it wasn't clear at the time -- that I was subpoenaed and
6 ordered to do something that may conflict with Altpoint as a
7 corporate entity, I hired additional counsel to represent me,
8 Proskauer, Mr. Michael Cardozo, and Altpoint is paying for
9 those pieces too.

10 Q. OK. I guess my question to you is, my question was, do you
11 personally pay for the fees associated for the work that,
12 first, Debevoise performed for you, or to some other entity?

13 A. I was subpoenaed in connection with my work. I owned a
14 company. It was a tax efficient way of paying it, to pay it
15 from Altpoint.

16 Q. With respect to the fees that you incurred, do you know
17 when Altpoint began paying those fees?

18 A. I don't.

19 Q. Did you take any steps other than retaining counsel to try
20 and obtain information that was subject to the subpoena?

21 MR. CARDOZO: Object to the form. Let me ask what
22 time period.

23 MR. GEERCKEN: Thank you, Michael. That's a good
24 objection. Let me rephrase that.

25 Q. If February of last year when you received the subpoena,

1 did you take any steps to locate documents or information that
2 were responsive to the subpoena?

3 A. Counselor, I sought advice of my counsel, who requested
4 that I produce -- that I submit to the information discovery.
5 Debevoise at the time took an extensive search of responsive
6 documents on Altpoint servers. And in addition to that, I took
7 a search on my personal e-mail accounts that were -- now they
8 are in the cloud, they don't reside on anyone's drive -- and
9 produced the responsive documents over to the petitioner, to
10 yourself, at the time.

11 Q. And that was in February of last year that you undertook
12 that, sir?

13 A. I don't remember the exact month. It was in response to
14 the subpoena that was -- that I received in February.

15 Q. Well, if you would take a look at your transcript, at page
16 59, line 12, I asked you, "When did you first undertake a
17 search for responsive information?" Right? And you said, you
18 personally, in September of last year, when an order came out.
19 Is that correct?

20 A. Counselor, this is --

21 MR. CARDOZO: I object.

22 A. This is how it happened.

23 MR. CARDOZO: Objection.

24 A. Let me --

25 THE WITNESS: Michael --

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1 MR. CARDOZO: Objection.

2 THE COURT: Counsel.

3 MR. CARDOZO: Your Honor, in a deposition he said that
4 Debevoise was able to search his documents, which he just
5 referred to. There is a declaration to that effect. So I
6 think it is misleading to suggest that he personally was doing
7 anything other than asking counsel for the documents.

8 Q. If I could ask, Mr. Aliev, could you read lines 12 through
9 21 of page 59?

10 A. "Q. When did you first undertake a search for responsive
11 information?

12 "A. Me personally?

13 "Q. Yes."

14 THE COURT: I'm sorry, sir. It's easier for the
15 reporter if you do Q and then "A: Me personally," "Question:
16 Yes." Go ahead.

17 A. Got it.

18 "Q. When did you first undertake a search for responsive
19 information?

20 "A. Me personally?

21 "Q. Yes.

22 "A. I believe when the ruling that I should produce some
23 documents personally in September of last year came about,
24 that's when I searched my personal information outside of what
25 counsel did with the company servers."

1 So I did look into this. And, counsel, with all due
2 respect, please understand that this subpoena is, however
3 topical, is an enormous expense and a nuisance to my business.
4 I conducted a search, on advice of Debevoise at the time,
5 through my personal servers. I can't pinpoint the month. When
6 the new court order came that that information was
7 insufficient, I hired Proskauer and sought advice from them.
8 That's what I have done.

9 Q. My question to you is, when did you first undertake a
10 search, and your deposition testimony suggested that it was
11 roughly around September of last year.

12 A. I can't pinpoint a month. It was before the additional
13 court order was issued to me.

14 Q. And is there any reason that you think your testimony at
15 your deposition was inaccurate?

16 MR. CARDOZO: Objection.

17 A. Let's not allude to --

18 MR. CARDOZO: Objection.

19 THE COURT: If there's an objection won't you hold
20 your answer so that we can work it out.

21 MR. CARDOZO: Your Honor, I think --

22 THE COURT: Is there any reason he can't answer the
23 question?

24 MR. CARDOZO: I think we've gone over this. I think
25 he was mischaracterizing both the deposition and Mr. Aliev's

1 testimony.

2 THE COURT: Sustained -- I'm sorry. Overruled.

3 Do you have in mind the question, sir, or would you
4 like it put to you again?

5 THE WITNESS: It can be put to me again.

6 MR. GEERCKEN: Certainly.

7 Q. As you sit here today, is there any reason that you believe
8 that your testimony that you just read into the record is now
9 inaccurate?

10 A. There is a reason to believe that, as months go by and I
11 refresh the memory on thousands of documents, thousands of line
12 of text that were presented to me, that I could be off on a
13 month. However, I do have, or at least I try to have a fairly
14 good memory of milestones, and what I would like to tell you is
15 that I did conduct a search of personal records prior to the
16 additional court order that mandated me to do something outside
17 of what I have done as part of the original subpoena.

18 Q. My question is simply, do you believe that that testimony
19 that you read into the record is inaccurate?

20 A. I have answered it as best I could.

21 Q. You just don't know. Is that your testimony?

22 A. I don't know the exact month when I first conducted a
23 personal search, and I don't want for this to come off
24 uncooperative, but I don't know.

25 Q. When did you contact Mr. Potanin for the first time about

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1 the subpoena?

2 A. When the motion for Interros Russian domestic records was
3 presented to me, when the court order was presented to me, I
4 sought advice of different counsel, Proskauer, and I have done
5 what Mr. Cardozo explained and elucidated in the opening
6 remarks; I contacted pretty much the only people I ever talked
7 to, the GC at Interros and Mr. Potanin, and asked them for his
8 documents. It is quite inconceivable that I would go to anyone
9 else. I hardly know anyone else.

10 Q. Mr. Aliev, my question was simply when you started, when
11 you did that.

12 A. October.

13 Q. October of last year --

14 A. Of last year.

15 Q. -- is the first time that you contacted Mr. Potanin and the
16 others you've mentioned; is that correct?

17 A. Correct.

18 Q. OK. Mr. Aliev, I'd like you to take a look at the exhibit
19 binder. It's the joint exhibit binder, the big one. Does that
20 help? And I'd like you to like a look at Exhibit 4.

21 A. Looking at it.

22 Q. And that is your employment contract. Correct?

23 A. Technically a labor contract. But substantially similar to
24 what is meant in the United States by the employment contract.

25 Q. Right. And that was your employment contract, your labor

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1 contract, with Interros, correct?

2 A. That appears to be so.

3 Q. And it's dated October 1st, 2008, correct?

4 A. That is right.

5 Q. And you signed that labor agreement, correct?

6 A. I have.

7 Q. And you were hired for the position of deputy chief
8 executive officer, correct?

9 A. Correct.

10 Q. And you've already testified about the services that you
11 were to perform as deputy chief executive officer, correct?

12 A. Correct.

13 Q. And in paragraph, or article 5, additional terms, 5.2 talks
14 about confidential information, correct?

15 A. It does talk about that.

16 Q. And that contemplates that you might get access to
17 confidential information, correct?

18 A. I would not want to infer from the document. The document
19 says what it says.

20 Q. And is it your position that you never received access to
21 confidential information at Interros?

22 A. It is my position that I could have been privy to
23 confidential information at Interros as I was a senior exec at
24 Interros at the time. As to the nature of that information,
25 seven years ago, I don't remember.

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1 Q. And then I'd like to turn your attention to, I think we
2 have a 4-G. Do you see that?

3 A. Tab G in Exhibit 4?

4 Q. Correct.

5 A. Looking at it.

6 Q. OK. And Mr. Aliev, this is an agreement that you entered
7 into August 2nd, 2010; is that correct?

8 THE COURT: Counsel, may I just ask you where you are.

9 MR. GEERCKEN: Yes, your Honor.

10 THE COURT: 4G, in the index to the Joint Exhibits, is
11 in Russian.

12 MR. GEERCKEN: Yes, your Honor. Forgive me. I think
13 we probably should have started with the translations. If you
14 turn a few pages in you'll get to the English translation. Two
15 pages in.

16 THE COURT: Alrighty, then. Thank you.

17 MR. GEERCKEN: Sorry about that.

18 Q. OK. And this is an agreement that you've signed, correct?

19 A. Correct.

20 Q. And this was a supplement to the agreement that we've
21 talked about, correct?

22 A. That's what it says. Supplemental agreement.

23 Q. And you understood at that time other provisions of that
24 agreement, unless changed by the supplement, remained in
25 effect, correct?

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1 A. Counselor, I would not argue with that. They should be.

2 Q. OK. And you were given a new position at this time,
3 correct?

4 A. That is correct.

5 Q. And it was -- section 1.1 says the employee is hired in
6 management in a position of vice president, correct?

7 A. Correct.

8 Q. And under a little bit -- second paragraph after that --
9 there is an addition to Section 1.6 of the earlier agreement,
10 correct?

11 A. Correct.

12 Q. And it says "the activity of the vice president shall be
13 directed in performing representative functions of the company
14 in connection with foreign investors and funds," correct?

15 A. Correct.

16 Q. That was one of the activities you undertook as the deputy
17 CEO, correct?

18 A. As the deputy CEO, I was in charge of evaluating the
19 performance.

20 Q. Of foreign investors and funds.

21 A. Of foreign investor -- investments and funds.

22 Q. And the next section says "the powers," and then it has a
23 parentheses, "rights and obligations," close parentheses, "of a
24 vice president while he is performing his functions are
25 determined by the regulation on the president and vice

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1 president of Interros Holding Company, CJSC." See that?

2 A. Yes.

3 Q. Did you request access, or did you request a copy of that
4 regulation at the time you received the agreement?

5 A. I didn't, counselor. At this point it was just an honorary
6 title.

7 Q. This was a title that you -- you asked to retain a title,
8 though, correct?

9 A. As I explained to you, the reason for that, correct.

10 Q. And did you ever look at the regulation on the president
11 and vice president?

12 A. As part of preparing for this motion, I have, but not prior
13 to that.

14 Q. And when you contacted -- you said you contacted, I think,
15 Mr. Potanin and Ms. Zakharova.

16 A. In reverse order, yes.

17 Q. I'm sorry?

18 A. In reverse order.

19 Q. In October of last year, correct?

20 A. Correct.

21 Q. And did you reference the regulation in your discussion
22 with them?

23 A. Counselor, I did not. I have said the following things.
24 For clarity I think it would be very relevant. I have called
25 Marianna, who is my prime point of contact at Interros, and

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1 have said that I have been subpoenaed by a U.S. New York
2 district court to produce --

3 THE COURT: Sir, the question was, "In your
4 conversations with them, did you make reference to the
5 regulations on the president and vice president of Interros
6 Holding Company, CJSC?"

7 THE WITNESS: I did not.

8 Q. And is it your testimony that when you were asking about
9 the subpoena, that you didn't seek to inform yourself about the
10 regulation?

11 A. I sought the advice of counsel, counselor, and I did, as
12 was suggested.

13 Q. OK. My question is a little different. Did you try to
14 inform yourself personally about what your rights and
15 obligations were under the regulation when you contacted these
16 Interros folks about the subpoena?

17 A. Counselor, I did the best I could. I informed myself as
18 best I could.

19 THE COURT: That's a yes, no, or I don't remember
20 question.

21 THE WITNESS: I don't remember.

22 Q. When do you remember the first time looking at the
23 regulation?

24 A. When I was preparing for this motion.

25 Q. When you say "for this motion," are you saying preparing

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Aliev - direct

1 for this hearing?

2 A. After I have contacted Ms. Zakharova and Mr. Potanin.

3 Q. OK. So you didn't discuss this with Mr. Potanin or

4 Ms. Zakharova.

5 A. No.

6 Q. Can you turn to Exhibit 2 of the large binder, the Joint

7 Exhibit. Now, if you turn to Exhibit 2, the first part is in

8 Russian. And then I'm looking at three pages in, Mr. Aliev, at

9 the translation.

10 A. All right.

11 Q. That is the regulation on president and vice presidents of

12 Interros Holding Company, correct?

13 A. Correct.

14 Q. If you look at Section 3.3, that talks about, it says "for

15 purposes specified in clause 3.1 herein, the vice president of

16 the company shall" -- do you see that?

17 A. I'm looking at it.

18 Q. Yes. Am I correct? Did I get that right?

19 A. You're referring to 3.3, the first line, right?

20 Q. Correct.

21 A. Yes. I'm looking at it. What's the question?

22 Q. And the language is, "for purposes specified in clause 3.1

23 herein, the vice presidents of the company shall," right? Do I

24 have that language right?

25 A. Translate -- I don't want to argue about the specifics of

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1 the translation, whether it's "shall" or "is directed to," etc.
2 We don't want -- there is a semantic attribution here.

3 Q. Right. And then at 3.1, which is being referred to, that
4 section says, "The activities of the president and vice
5 president shall be aimed at performing the function of
6 representing the company." Correct?

7 A. "If directed to," is the literal translation.

8 Q. That's the translation that you would adopt, is that
9 correct?

10 A. "Is directed to."

11 THE COURT: Is directed to performing the functions?

12 THE WITNESS: Correct.

13 Q. And then likewise in 3.3, you would change the translation,
14 "the vice president of the company is directed to"?

15 A. I am not a professional translator, especially a legal
16 translator. But it says "to the benefit of the aims stated in
17 3.1." Comes out a little wonky, but --

18 THE COURT: Counsel didn't ask you that.

19 THE WITNESS: Um, "shall" would probably be the
20 closest.

21 Q. "Shall" would be the closest, OK.

22 A. Right.

23 Q. And one of the things that vice president shall do, in that
24 first bullet point, is represent the company in relation to
25 public authorities. Is that correct?

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Aliev - direct

1 A. Government authorities.

2 Q. So you would take issue, it would be some form of
3 government authority?

4 A. If you're ask -- I don't know what detail of this is going
5 to become topical, so I'm trying to be as precise as possible.
6 No issue.

7 Q. No issue with, government or public should be fine, in your
8 view.

9 A. Probably.

10 Q. And then if you go down four more bullet points, to the
11 last one on the English translation, that would be, "The vice
12 presidents of the company shall participate in negotiations
13 with major contract -- with major counterparties and partners
14 in Russia and abroad." Do you see that?

15 A. Which one? I'm sorry? Which --

16 Q. It is the --

17 THE COURT: Last line on page 2.

18 Q. -- last line on page 2, the sixth one in the Russian
19 translation, in the Russian version.

20 A. Got it.

21 Read the translation to me, please?

22 Q. Sure. "Vice presidents of the company shall," and then the
23 language is "participate in negotiations with major
24 counterparties and partners in Russia and abroad."

25 A. Correct.

1 Q. OK. So is it fair to say that these were the obligations
2 that were imposed upon you in connection with the regulation?

3 A. In order to be precise -- and I don't want, again, to make
4 this any murkier than it is -- the translation is that this is
5 what vice presidents do, whether it's a "shall" or what they do
6 or are directed to do. I don't think I should be the opinion
7 leader on that. This is what vice presidents can do, according
8 to this document.

9 Q. I thought we had settled upon, you said that we talked
10 about "is directed to" and "shall," and you said "shall" was
11 the proper translation.

12 A. Sir, I am not a professional translator, but if the
13 semantic attributions of meaning are relevant here, then I
14 would not take a view on how this should be translated. We
15 should get a forensic linguist here to attest, if this is going
16 to become an issue. I'm trying to be very helpful, but I don't
17 want to concur with something. So let's, if this is relevant,
18 what the nature of these words are and the translations
19 thereof, then somebody else should probably take a view on
20 that.

21 But this is, it is clear from this document that this
22 is what vice presidents can do.

23 Q. I understand what you're saying. I'm just asking you about
24 the language that you testified to. You said it was "shall."
25 And I want to understand if you're taking that back now and you

1 think the word ought to be "can do."

2 A. And, sir, for the third time I ask you not to put words in
3 my mouth. I have just explained to you that if the detail of
4 the translation here is going to matter, then you should take
5 an independent forensic linguist to translate this for you.
6 I'm telling you what I understand this document to mean.

7 Q. And you don't, you have no information about your counsel
8 objecting to this translation, do you?

9 A. I have no information.

10 Q. And you're not objecting to this translation right now, are
11 you?

12 A. We can go in circles forever. I just said what I believe,
13 what this document is taken to mean. I believe that it is
14 clear from this document that vice presidents can do that.
15 Whether they shall, will, or are supposed to be directed to
16 perform these functions is open to interpretation, and I'm not
17 the judge of that.

18 Q. So is it your testimony as you sit here today that you
19 don't know whether this required you to perform certain
20 functions?

21 MR. CARDOZO: Objection. I think we're now having a
22 legal argument, your Honor, not, not a translation argument.

23 THE COURT: The witness started it.

24 You may answer, sir.

25 A. Please repeat the question?

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Aliev - direct

1 Q. So is it your testimony today that you just don't know
2 whether you are require to perform any of these functions?

3 A. I was not required to do anything. I asked for the title
4 in order to have a credential. I did not look at this document
5 at the time when I signed this agreement.

6 Q. And you did not look at the document when you asked
7 Ms. Zakharova and Mr. Potanin about complying with the
8 subpoena, correct?

9 A. As I have said, I did not look at the document at the time,
10 and I do not -- did not refer to it.

11 Q. And in fact if you look at Exhibit 6 -- and Exhibit 6 is a
12 Joint Exhibit list -- there is a single-page document, two
13 pages in Russian, front and back in my book, and then there is
14 the English translation. Do you see that, sir?

15 A. I am looking at both the Russian and the English
16 translation, correct.

17 Q. And this is a formal response that you received from
18 Mr. Barbashev of Interros with respect to the documents that
19 were requested. Correct?

20 A. This came through as an attachment in Marianna's response
21 e-mail to my request.

22 Q. And do I have the date of that correct, that that's October
23 8, 2014?

24 A. I believe that is correct.

25 Q. And Mr. Barbashev is saying that he has carefully

1 considered -- that "we have carefully considered your request
2 to provide documents," correct?

3 A. Can you point out to me the paragraph, please?

4 Q. I'm pointing to the very first paragraph, under the words
5 "dear Mr. Aliev."

6 A. Yes. That's what it says.

7 Q. You didn't see Mr. Barbashev reference the regulation in
8 this response, did you?

9 A. Could I please read the document quickly?

10 Q. Sure. To help you out, I see a reference to a regulation
11 in the final paragraph on the first page of the exhibit, in the
12 English translation.

13 A. It is referencing a bunch of regulations, yes.

14 Q. All right. When you see the reference to the regulation
15 that we've just been talking about that was Exhibit 2 --

16 MR. CARDOZO: Objection.

17 THE COURT: Sir?

18 MR. CARDOZO: I'm not trying to mislead you, but there
19 is a specific reference at the bottom of the page to
20 regulations.

21 THE COURT: On the first page, right?

22 MR. CARDOZO: Yes, your Honor.

23 THE COURT: I think counsel just called the
24 witnesses's attention to that two questions back. I think he
25 said "to help you out, there is a reference to a regulation in

1 the last paragraph on page 1." I believe he said that.

2 MR. CARDOZO: I'm sorry. I thought he was referring
3 to the first sentence of that.

4 THE COURT: I'm sorry, sir. I'm sorry, Mr. Cardozo, I
5 just didn't hear what you said.

6 MR. CARDOZO: I'm sorry. I apologize. I thought he
7 was referring to the initial reference to "regulation," rather
8 the one on the very second to third, or last line of the page.

9 MR. GEERCKEN: Thank you, Michael.

10 Q. That is in fact what I was referring to, Mr. Aliev.

11 A. Sorry. Can you repeat that again?

12 Q. Yes. Can you look at the regulation that's referenced on
13 the last, second-to-last line, at least of the English
14 translation. That's the regulation on commercial secrets and
15 confidential information of the company, dated December 31,
16 2002, correct?

17 A. Regulations and commercial secrets and confidential
18 information of the company dated December 31, 2002. And what
19 does it say in Russian?

20 So it does reference internal regulations of the
21 company, and that's what it says in Russian. The articles of
22 association and internal regulations of the company. So that
23 is, I guess, a reference to the -- could be construed as a
24 reference to the internal regulations on vice presidents.

25 Q. But you don't see a specific reference to the internal --

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Aliev - direct

1 to the regulation on the vice president and president, do you?

2 A. Yeah. I'm not sure exactly whether they constitute --
3 whether there is a company rulebook or --

4 THE COURT: Sir, it's an easy question. You don't see
5 a reference to the regulations on vice presidents, do you?

6 THE WITNESS: I don't.

7 THE COURT: All right.

8 Q. OK. And you didn't ask Mr. Barbashev afterwards why he
9 didn't reference that, correct?

10 A. Well, I believe this is referring to that regulation. It
11 just doesn't call it by that name. It said -- it refers to
12 internal regulations of the company.

13 Q. And did you seek to clarify that with Mr. Barbashev after
14 you received that letter?

15 A. I have not.

16 THE COURT: I'm sorry. What are you saying refers to
17 the internal regulations?

18 THE WITNESS: This letter refers to the articles of
19 association and --

20 THE COURT: Where is that, please, sir, on the English
21 translation?

22 THE WITNESS: Fourth line from the bottom on the first
23 page. Articles of association and internal regulations of the
24 company.

25 THE COURT: OK.

1 THE WITNESS: And internal regulations of the company,
2 I don't want to infer, but most likely refers to the regulation
3 on vice presidents. That's why I was a little bit hesitant in
4 answering this, because...

5 Q. And so you don't see a specific reference to it, but you
6 say that the regulations might have encompassed that, and I
7 guess my question to you is, did you seek to clarify that with
8 Mr. Barbashev?

9 A. And my answer is, no. This came after my conversation with
10 both Marianna and Mr. Potanin.

11 Q. I would like to draw your attention to Exhibit 1.

12 A. Same binder?

13 Q. The same binder, big binder, that's correct. And there are
14 a couple of pages in Russian, followed by a legal -- a
15 translation of a legal opinion. Do you see that?

16 A. Correct, yeah.

17 Q. And this is a legal opinion by Mr. Lisitsin Svetlanov; is
18 that correct?

19 A. That's what the document says.

20 Q. And do you know who Mr. Svetlanov is?

21 A. I have no idea.

22 Q. Do you know that he is an attorney at the YUST Law Firm,
23 Y-U-S-T?

24 A. I don't know who he is, other than he clearly is a
25 signatory to this opinion.

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Aliev - direct

1 Q. Did you try and find out whether he had any connection with
2 Mr. Potanin, prior to obtaining this opinion?

3 A. No.

4 Q. Do you know that the YUST Law Firm represents Mr. Potanin?

5 A. I don't know.

6 Q. Taking a look at this document, the first paragraph says,
7 "This is a legal opinion that has been prepared in response to
8 a letter received from CJSC Interros Holding Company, dated
9 October 3, 2014." Do you see that first paragraph?

10 A. Right.

11 Q. And this relates to your issue that you raised about
12 obtaining information responsive to the Court's order, correct?

13 A. I can't speak on behalf of Interros. It's dated after my
14 call to Ms. Zakharova.

15 Q. And did you review this when you received it?

16 A. This is addressed to Mr. Barbashev. I don't believe I have
17 received this.

18 Q. Did you ever see this document before, sir?

19 A. I don't believe I have.

20 Q. Do you see a reference to the regulation in this legal
21 opinion? And I'm referring to the regulation on presidents and
22 vice presidents of Interros.

23 A. This is a document that I don't have any memory of, so if
24 you don't mind I'll just take a second.

25 Q. That's fine.

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Aliev - direct

1 A. (Pause) It appears that this document refers to a body of
2 Russian law on similar cases, but not to Interros's internal
3 regulation.

4 Q. Thank you, sir.

5 A. A lot of case law references, though.

6 Q. Sir, I just wanted to check with you. Your employment
7 agreement with Interros is not terminated; is that correct?

8 A. Did you say is now terminated or it's not terminated?

9 Q. I'm sorry. Has your agreement with Interros terminated?

10 A. I believe not.

11 Q. That's still in effect, then, correct?

12 A. I believe so.

13 Q. I'd like to draw your attention to Joint Exhibit no. 7.

14 A. Looking at it.

15 Q. OK. Is this an exchange that you had with an Interros
16 employee or representative on or about July 9, 2009?

17 A. I believe so.

18 Q. And this, you received this in connection with performing
19 services for Interros; is that correct?

20 A. Correct.

21 Q. And this was designated by your counsel as confidential
22 information. Do you see that?

23 A. Correct.

24 Q. And this was at a time when you were the deputy CEO of
25 Interros responsible for, among other things, monitoring

1 foreign investments, correct?

2 A. 2009, at around this time, I was transitioning to my
3 position at Altpoint, but I was a deputy CEO of Interros, and
4 this could well have been a confidential exchange, correct.

5 Q. And it was at a time when one of your duties was
6 representing the company with respect to foreign investments,
7 correct?

8 A. Correct.

9 Q. Likewise, if you turn to Joint Exhibit 8 --

10 A. Joint Exhibit?

11 Q. No. 8.

12 A. No. 8, yes. An e-mail dated 2009, correct?

13 Q. That's correct.

14 A. Yes.

15 Q. And that was an exchange you had with Mr. Lebedev from
16 Interros, correct?

17 A. It appears so.

18 Q. And he provided you some additional confidential
19 information in the form of a draft related to a purchase
20 transaction, correct?

21 A. It is a term sheet on a sale or a purchase; is that
22 correct.

23 Q. Correct. And you believe this might have been confidential
24 information, correct?

25 A. It could well have been.

1 Q. And under your agreement -- we looked at your agreement --
2 you had an obligation to maintain the confidentiality of
3 confidential Interros information, correct?

4 A. Correct.

5 Q. And Pharanco, a company that he was referenced in the
6 purchase transaction document -- do you see that? To Pharanco
7 Holdings, on the second page of the document?

8 A. Looking at it.

9 Q. That is an entity that is affiliated with Mr. Potanin,
10 correct?

11 A. Sir, I have no idea what that entity is.

12 Q. You have no idea that Pharanco, a Cyprus entity, is owned
13 by Mr. Potanin?

14 A. As I said, I don't know what the legal structure is. This
15 document could well be that, or it could be anything. As I sit
16 here today, I have no idea what the company is, whatsoever.

17 Q. At the time did you believe you had an understanding of
18 what Pharanco was?

19 A. Sorry. I don't remember what my understanding was in 2009.

20 Q. And you don't know if I looked that up on Google and I
21 found out that Mr. Potanin was an owner of that, you don't know
22 whether that would be correct or incorrect?

23 A. Sir, I don't know what's out there on Google. It could
24 well have been. I would not argue with anything you say.

25 Q. I'd like to draw your attention to Exhibit 9.

1 A. Looking at it.

2 Q. And there is an e-mail that you received from Yahoo. And
3 it was sent to you. Do you have any understanding as to who
4 sent that to you?

5 A. The 2009 e-mail talks about a transaction between Interros
6 and a French bank. The document doesn't say who sent this to
7 me. It could be anybody.

8 Q. And the French bank was Société Générale, right?

9 A. Precisely.

10 Q. And this is labeled as confidential, correct?

11 A. By the counsel, correct.

12 Q. And you believe this may well be confidential information
13 of Interros, correct?

14 A. May well be.

15 Q. Likewise I'll draw your attention to Joint Exhibit 10.
16 This is an e-mail dated October 30, 2009 that Ilya Kosykh sent
17 to Gilles de Gasquet. Forgive my French.

18 THE COURT: G-i-l-l-e-s, de, Gasquet.

19 Q. And you understood that Gilles was with Société Générale?

20 A. Correct.

21 Q. And Ilya Kosykh, do you know who he was?

22 A. Interros employee.

23 THE COURT: I'm sorry. Is it I-l-y-a?

24 MR. GEERCKEN: That's correct.

25 THE COURT: K-o-s-y-k-h.

1 Q. And Mr. Kosykh reported to you in connection with this
2 transaction, correct?

3 A. This was the time when I transitioned to run Altpoint.
4 Ilya Kosykh was an associate at Interros, "reporting" I guess
5 is a formal word, but we had exchange.

6 Q. He was at Interros and he was reporting to you and
7 responding to your requests for information from time to time,
8 correct?

9 A. I'm not sure if he was reporting to me, because I was not
10 at Interros at the time. But I advised on this transaction. I
11 continued to advise on this transaction for about a year after
12 I moved to the U.S.

13 Q. We'll come back to that question, but for the time being,
14 this is an attached framework, or he attached a framework
15 agreement for Société Générale to consider; is that correct?

16 A. I am copied on the e-mail that he sent to a principal
17 negotiator at Société Générale, and I am counsel for whoever.
18 And some Deutsche Bank bankers were copied alongside myself.

19 THE COURT: Ms. reporter, would you read the question
20 back to the witness, please.

21 (Record read)

22 A. Correct.

23 Q. And this is labeled as confidential. As you sit here
24 today, this may well have been confidential Interros
25 information. Is that correct?

1 A. Could well have been confidential Interros information.

2 Q. Joint Exhibit 11, can you turn to that, sir.

3 A. Looking at it.

4 Q. This is an e-mail from Mr. Kosykh again to you, this time
5 in November 2009, correct?

6 A. Looks like it, yes.

7 Q. And he's providing some time lines for the final phase of
8 capital increase. Do you see that?

9 A. Looking at it, yes.

10 Q. And this is labeled as confidential information, correct?

11 A. Yes.

12 Q. And this could well have been confidential information of
13 Interros at that time, right?

14 A. Could well have been.

15 Q. Do you have any reason to believe that it was not
16 confidential information?

17 A. I don't have any reason to believe one way or the other.
18 It could well have been confidential information.

19 Q. Now, earlier -- well, let's turn to Joint Exhibit 14,
20 please.

21 A. I am looking at it.

22 Q. You have an e-mail to Mr. Kosykh at the time of the page.
23 And this e-mail is dated January 31, 2010, correct?

24 A. Correct.

25 Q. It regards proceeds to Interros. And there you're asking

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Aliev - direct

1 for a short bullet-point summary of commercial points for VO.

2 Do you see that?

3 A. Correct.

4 Q. And is that Vladimir, I forget --

5 A. That is an acronym that Russians would use, sometime to
6 point to him, correct.

7 Q. Mr. Potanin, correct?

8 A. Correct.

9 Q. And if I understand it right, Russian often refer to the
10 first initial and the middle initial?

11 A. Correct.

12 Q. And is his middle name Oleg?

13 A. Some declension of that.

14 Q. So that clearly refers to -- you need that information from
15 Mr. Potanin, correct?

16 A. Correct.

17 Q. And you needed it the same day, correct?

18 A. That's what this e-mail says.

19 Q. And you wanted it in English, right?

20 A. It says "can do" in English. I'm not sure whether I'm
21 asking him to do it or I will do it. I'm not sure. Yes.

22 Q. And does this refresh your recollection as to whether
23 Mr. Kosykh had to comply with certain of your requests?

24 A. This is an e-mail exchange. I asked -- you asked me if he
25 reported to me. And that's the only point that I don't know.

F6HAPOTHps

Aliev - direct

1 But I was having an exchange with a junior associate at
2 Interros, correct.

3 Q. And you expected him to comply with your request, correct?

4 A. I asked him to.

5 Q. Did you have an expectation that he would comply?

6 A. I did.

7 Q. In fact, in Joint Exhibit 15 -- that's dated January 31,
8 2010 -- you write back to Mr. Kosykh and you kind of chastise
9 him a little bit; he didn't give you what you wanted. Is that
10 correct?

11 A. It appears that I did chastise him.

12 Q. That's not what you asked for. And at the end you say,
13 "please pay attention to my question," right?

14 A. It appears that that's what I said.

15 Q. And you expected him to comply with your request.

16 A. I had asked him to, yes, expected to.

17 Q. And if you return to the regulation -- that's back at
18 Exhibit 2 -- you talk about that a little bit earlier. Now I
19 draw your attention to page 3 of the translation. And there,
20 in paragraph 3.5, it says, "The presidents and the vice
21 presidents of the company has the right to receive necessary
22 information and documents about the activities of the company,
23 and give company employees mandatory instructions that are
24 aimed at exercising the authority of the president and vice
25 president." Do you see that?

F6HAPOTHps

Aliev - direct

1 A. That is correct.

2 Q. And so when you gave an order as a vice president of
3 Interros that was consistent with the authority you were given,
4 employees were required to comply, correct?

5 MR. CARDOZO: Objection.

6 THE COURT: Sir.

7 MR. CARDOZO: He was not a vice president at the time
8 that these e-mails were being exchanged.

9 THE COURT: Mr. Geercken.

10 Q. My question to you is that as a vice president of the
11 company, this document indicates you had the power to request
12 information necessary for performance of your duties, and
13 employees then had a responsibility to comply, correct?

14 MR. CARDOZO: Objection.

15 THE COURT: Same objection?

16 MR. CARDOZO: Yes.

17 THE COURT: Overruled.

18 A. The document says in connection with my duties.

19 Q. So is the answer yes?

20 A. The answer is, the specifics of the question is, does the
21 document say that I have the right to receive information in
22 connection with the execution of my duties? Then the answer is
23 yes.

24 Q. Thank you, sir. That's all I have for you right now.

25 A. You're welcome.

1 THE COURT: Thank you.

2 Do you want a five-minute break?

3 MR. CARDOZO: I would appreciate that, your Honor,
4 yes.

5 THE COURT: Let's take five minutes, ladies and
6 gentlemen. Thank you.

7 MR. GEERCKEN: Thank you, your Honor.

8 (Recess)

9 THE COURT: Earlier on, counsel, I think the witness
10 testified to the funds under management, and then testified as
11 to the percentage of Interros funds in those funds. I thought
12 you told me that was confidential. Is that right or not?

13 MR. CARDOZO: I think the answer is yes, your Honor.

14 (Discussion held of the record)

15 THE COURT: That answer will be put on a separate page
16 and sealed.

17 OK, Mr. Cardozo.

18 MR. CARDOZO: Thank you.

19 CROSS EXAMINATION

20 BY MR. CARDOZO:

21 Q. I would say good afternoon, Mr. Aliev, but we are just
22 right at noon.

23 A. Good afternoon.

24 Q. Before you went to work for Interros in 2008, I think you
25 testified that you had worked for Rosbank?

F6HAPOTHps

Aliev - cross

1 A. That is correct.

2 Q. For how long had you worked at Rosbank?

3 A. Approximately five years.

4 Q. And in what position?

5 A. I was the deputy CEO of Rosbank in charge of investment
6 banking.

7 Q. And where was Rosbank located?

8 A. Headquartered in Moscow.

9 Q. And then you, according to your testimony, you went to work
10 for Interros in 2008?

11 A. That is correct.

12 Q. We discussed, you entered into an employment agreement with
13 them at that time, right? With Interros, when you went to work
14 for them.

15 A. Correct.

16 Q. And you started to say what your principal areas of
17 responsibility are. Could you tell us that again.

18 A. The principal areas of responsibility at Interros was
19 overseeing Interros's investments.

20 Q. And you discussed the --

21 A. And evaluating -- I'm sorry -- evaluating the performance
22 of those investments.

23 Q. You discussed the Stone Tower aspect of that. Is there any
24 other particular company that you paid particular attention to
25 as an Interros investment?

1 A. Correct. The Rosbank transaction. It was a staggered,
2 tiered transaction that stretched in time, and I was involved
3 in that.

4 Q. Could you explain that a little bit more. What does that
5 mean, you were involved in that?

6 A. I was instrumental in structuring the transaction when I
7 was a Rosbank executive, as somebody who possessed the
8 knowledge and the skills to run an investment banking
9 transaction. That carried over to my employment at Interros,
10 so I paid particular attention to this transaction. And even
11 when I transitioned to Altpoint, I continued to advise on that
12 transaction. And some was more of an advisory capacity, but I
13 still was privy to that information.

14 Q. I see. Now, while you were at Interros in 2008, did you
15 have any authority to sign checks, any banking authority?

16 A. None whatsoever.

17 Q. Did you have power of attorney of any kind?

18 A. None whatsoever.

19 Q. Who reported to you while you were at Interros?

20 A. I had two assistants and from time to time I had an
21 associate.

22 Q. And then what happened after 2008, as far as your move?

23 A. 2009?

24 Q. No. In 2008, what happened? Where did you go next?

25 A. Having worked at Interros for about a year, and focusing on

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Aliev - cross

1 the particular investment of their Stone Tower investment,
2 investments in Stone Tower funds and Rosbank, I transitioned to
3 manage the portfolio of companies in which Stone Tower
4 originally invested, as an Altpoint CEO.

5 Q. And during the year 2009, where were you physically
6 located?

7 A. During the transition year, there were a few
8 back-and-forths between Russia and New York.

9 Q. Now, at Altpoint, you were the CEO?

10 A. Correct.

11 Q. And in the entity, who was the majority, who was making the
12 majority investments in the management company itself?

13 A. The management company, I am the majority holder of the
14 company.

15 Q. And what percentage interest does Interros have?

16 A. 10 percent, approximately.

17 Q. Tell us a little bit more. What exactly is your role?
18 What do you do on a day-to-day basis for Altpoint?

19 A. The role was very similar to what any fund manager does.
20 Altpoint is a fund manager: attracts the funds from investors,
21 and then invests them as it sees fit, for the benefit of
22 producing high returns. We buy and sell controlling and
23 non-controlling positions in companies. Being a U.S. manager
24 in the United States, we have investments in Texas, we have
25 investments in just about every single state in the United

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Aliev - cross

1 States. We buy and sell these companies as we see fit. That
2 is what fund managers do. This is what I do at Altpoint as a
3 private equity fund manager.

4 Q. And I think you testified that you from time to time report
5 to your investors. Is that right?

6 A. As any fund manager will have regular reporting
7 requirements and auditing financials.

8 Q. And who besides people from Interros do you get this
9 information -- report to?

10 A. To all investors in Altpoint.

11 Q. Approximately how many entities are there?

12 A. Entities are individuals. A few tenths.

13 Q. And one of the companies you report to is Interros?

14 A. Correct.

15 Q. And in your Altpoint hat, who do you deal with in Interros
16 on those issues?

17 A. I deal with the general counsel, and like I mentioned
18 before, Interros has a controlling function, headed up by Olga
19 Zinovieva. I deal with her and a subordinate of her who is
20 dedicated to evaluating the performance of Altpoint, somewhat
21 similar to what I used to do when I was at Interros.

22 Q. So you dealt with Marianna, the general counsel?

23 A. Deal with Marianna, the general counsel, often.

24 Q. And you deal with the controller.

25 A. Correct.

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Aliev - cross

1 Q. And one of the controller's deputies?

2 A. Correct.

3 Q. Anybody else?

4 A. Hardly ever anybody else. And I talk to Mr. Potanin -- I'm
5 sorry, I have to mention this -- from time to time as well.

6 Q. OK. Now, you just, it was explained to Mr. Geercken, after
7 you arrived in the United States, you continued to do some work
8 for Interros; is that right?

9 A. Very specifically, I was involved with advising on the
10 Rosbank transaction.

11 Q. Now, Mr. Geercken showed you a number of documents -- I
12 think you've marked them Joint Exhibits 7 to 15 -- in a big
13 book. Do you have that in front of you?

14 A. Correct, yes.

15 Q. Now, was there a particular transaction that each one of
16 those documents was relating to?

17 A. Every single one of these documents refers to the Rosbank
18 transaction. They are all congregated within a very short
19 period of time. And they are all from six years ago, just as I
20 was transitioning into my Altpoint role, heading -- still had
21 some carryover responsibilities at the time.

22 Q. And what was the reason, again, that you would look to, of
23 a Rosbank role for Interros?

24 A. As I was a senior Rosbank executive, being there at the
25 outset of this transaction, this being a staggered and tiered

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Aliev - cross

1 transaction in time that took two to two and a half years, I
2 was probably qualified to advise on this transaction. And I
3 took that responsibility. And this is what I did in the
4 capacity of an Interros employee.

5 Q. And at the time you were doing all this work for Interros
6 with respect to the Rosbank transaction, was that before or
7 after your title had changed from deputy CEO to vice president?

8 A. That was before the title change.

9 Q. I see. Now, when did the, call this work for Rosbank,
10 transaction work then come to an end?

11 A. At some point in 2010. I was no longer involved at all.

12 Q. Now, let me ask you to look at your employment agreement,
13 Exhibit 4. Do you have that in front of you?

14 A. Looking at it.

15 Q. And subsequent to that, were there -- I think Mr. Geercken
16 asked -- were there amendments, supplements executed?

17 A. There were supplements executed a few times after the
18 original agreement was signed.

19 Q. And did those supplements, I don't know whether you can
20 tell us, did they change your salary at all?

21 A. I went through the painstaking trouble to look at the
22 supplements, in preparation for this motion, and my salary
23 changed dramatically as I transitioned out of my Interros role.
24 And I can give you the numbers, if this is helpful.

25 Q. One thing at a time. So can you tell the Court, if you've

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Aliev - cross

1 looked through Exhibits 4-A through 4-G, did your salary change
2 over time?

3 A. That is correct. It changed.

4 Q. And now I ask you to take a look at Exhibit -- I'm sorry --
5 it's a smaller book. Respondent's Exhibit J. Do you see where
6 it says "respondent"?

7 A. I am looking at it.

8 Q. OK. Do you know what that is?

9 A. That is a tabular representation of my salary amendments.

10 Q. And did you do calculations at my request to translate the
11 ruble figures in the various contract amendments to dollars?

12 A. I went through every single ruble number with an
13 exchange-rate website and computed the equivalent dollar amount
14 for the salary.

15 MR. CARDOZO: Your Honor, I would like to offer in
16 evidence Exhibit 4, or Respondent's Exhibit J.

17 THE COURT: Counsel?

18 MR. GEERCKEN: Your Honor, we're not going to fuss too
19 much about it, but I think there should be a proper foundation
20 laid for how this was prepared, what exchange rate was used.
21 We only saw this a couple days ago. Subject to that we don't
22 have an objection, but we would like to hear how it was
23 prepared.

24 Q. Mr. Aliev, could you tell us what you did to come up with
25 these rates that are on Exhibit J.

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Aliev - cross

1 A. Right. So, counselor, I am an investment banker by
2 training. This is the simplest metric there is, is a foreign
3 exchange rate. I looked at the government-run exchange-rate
4 website for all of the dates that my amendments came into
5 effect, and translated, based on the rates for every single day
6 on which the amendment was entered into, I computed those
7 dollar amounts based on the exchange rates -- the
8 exchange-rate-site tracker that is referenced here.

9 MR. CARDOZO: I renew my offer, your Honor.

10 MR. GEERCKEN: No objection, your Honor.

11 THE COURT: Received.

12 (Respondent's Exhibit J received in evidence)

13 Q. Would you look at Respondent's Exhibit K, the next one.
14 Could you tell us what that is.

15 A. That is a graph of my -- a chart of my salary as an
16 Interros employee.

17 MR. CARDOZO: I offer it into evidence as a
18 demonstrative exhibit, your Honor.

19 MR. GEERCKEN: No objection, your Honor.

20 THE COURT: Received.

21 (Respondent's Exhibit K received in evidence)

22 Q. Now looking at Respondent's Exhibit K, can you, in your
23 words, was your salary going up or down over this period of
24 time?

25 A. My salary overwhelmingly came down, from a 60,000-dollars-

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Aliev - cross

1 a-month equivalent to a 570-at-today's-rate-dollar-amount
2 equivalent; i.e., it came down by a factor of more than a
3 hundred.

4 Q. Now going back to your Respondent's Exhibit -- the Joint
5 Exhibit, discuss me -- 4-H, what is your specified salary as of
6 January 2011?

7 A. As of January 2011, my salary is specified and denominated
8 as 31,000 rubles.

9 Q. And in today's rate, what would that be?

10 A. Today's rate, this is approximately \$575 per month.

11 Q. When is the last time you collected any of this salary from
12 Interros?

13 A. I don't remember, but not for the last three or four years.

14 Q. Now, you say the Rosbank transaction ended sometime in
15 2010, the work on it?

16 A. That is correct.

17 Q. Have you done any work of any kind, as an Interros
18 employee, since your work on the Rosbank transaction ended
19 sometime in 2010?

20 A. I have performed no work for Interros or any function of
21 any kind since the Rosbank transaction wound up.

22 Q. And take another look at the exhibits that were marked
23 Joint Exhibits 7 to 15 that Mr. Geercken asked you about. Have
24 you received any documents from Interros relating to your work
25 for Interros other than the kind of documents relating to

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Aliev - cross

1 Interros?

2 A. Other than the kinds of documents that are attached as
3 exhibits in this binder, I have not received any other
4 documents or requests from Interros to perform any functions as
5 an employee.

6 Q. And how much of your working time since the Rosbank
7 transaction concluded did you spend on -- as an Interros
8 employee?

9 A. Exactly zero.

10 Q. And where do you spend your time?

11 A. I spend substantially all my time as an Altpoint manager,
12 managing tens of investments that we have entered as Altpoint
13 managers. All of my time is dedicated to running a private
14 equity company.

15 Q. When your title changed in August of 2010 to vice
16 president, from deputy CEO, in your mind was that a promotion
17 or a demotion?

18 A. Not only it is a demotion; I viewed it as an honorary
19 title. As I said, I performed no functions, and used that as a
20 credential, as I went about sourcing the business for a newly
21 formed company.

22 Q. And August -- I'm sorry. When you changed your title, when
23 your title changed, was that about at the time that your work
24 for Rosbank, the Rosbank transaction came to an end?

25 A. That is about at that time.

1 Q. Now, how long have you known Mr. Potanin?

2 A. I met him at some point when I worked at Rosbank, probably
3 during my tenure at Rosbank, the end of 2003 or 2004.

4 Q. Mr. Geercken asked you about your social interaction with
5 him. What kind of social interaction do you have with him?

6 A. There are fairly formal interactions. His office organizes
7 social events. Every once in a while, for him personally, for
8 Interros, I receive a formal request from his office to attend,
9 and I R.S.V.P.

10 Q. And do you call him up and say, hey, let's have a drink,
11 kind of thing?

12 A. He is my largest investor, and it will be fair to say that
13 our relationship is friendly, but he is not somebody I'd invite
14 up to the Hamptons to hang out for the weekend, ever.

15 Q. And when you had meetings with Mr. Potanin, do you meet him
16 on -- when you were work -- withdrawn.

17 In 2008 when you had meetings with Mr. Potanin, was
18 that on a regular basis?

19 A. When I worked at Interros as a deputy CEO, it was fairly
20 regular. We had meetings on business opportunities related to
21 what I was doing at Interros at the time.

22 Q. And subsequent to that, when you had meetings with
23 Mr. Potanin, how did they come about?

24 A. They come about at the request of his office, usually for a
25 reporting function at -- that relates to the performance of his

1 investments that I manage as an Altpoint manager. But they
2 come from his office. I never initiate social contact.

3 Q. Now, he's an important business associate, right?

4 A. That is a fair statement.

5 Q. From time to time do you and Mr. Potanin have
6 disagreements?

7 A. We do, quite often. I have disagreements with him and his
8 office. As a fund manager, we're often in ferocious
9 negotiations in issues related to managers' compensation and
10 fees and other structural issues, just like any investor would
11 with any fund manager. We hire counsel, pay an enormous amount
12 of money to settle those arguments between Altpoint and
13 Interros.

14 Q. You have hired the same or separate counsel?

15 A. Separate counsel.

16 Q. Why do you hire separate counsel?

17 A. Because we -- it would be a conflict. I am very mindful as
18 to the conflicts that ensue. We are an SEC-registered U.S.
19 private equity fund. We maintain our reputation.

20 Q. Let me ask you to look at the small book, Respondent's
21 Exhibit A. Can you tell us what that document is, what it
22 relates to?

23 A. Respondent's exhibit?

24 Q. Right. In the small book.

25 A. This is the exchange between me and Interros's controller,

1 Olga Zinovieva, where we specifically argue about fees and
2 capital contributions and all the structural formative issues
3 with respect to the fund management.

4 THE COURT: The name is Z-i-n-o-v-i-e-v-a.

5 Q. And take a look at Respondent's Exhibit B. Can you tell us
6 what that relates to.

7 A. That is an exchange between me and an attorney at Interros,
8 where I think I emotionally argue some of the points, it
9 appears like, as they relate to my disagreements with Interros.

10 Q. And look at Respondent's Exhibit C and tell us what that
11 relates to.

12 A. This is a document that attests to how capital calls are
13 submitted to Interros in our function as the fund managers, and
14 we argue on the procedure for those, for that as well.

15 Q. And finally Respondent's Exhibit 4-I -- Respondent's
16 Exhibit I, excuse me, a little bit further back in the book.
17 See that?

18 A. I'm looking at it.

19 This is an argument about the fine points about how
20 our relationship with Interros -- about the document that
21 governs our relationship with Interros, in this particular
22 case, how the distributions are made and how the cash flows.

23 Q. If you could just take a quick look back and tell us, when
24 were these e-mails exchanged?

25 A. These e-mails, the last one is August of last year. And

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Aliev - cross

1 the prior ones. And which one you're referring to, A and B.
2 So these were 2014 documents, last year.

3 MR. CARDOZO: I offer Exhibits A, B, C, and I in
4 evidence.

5 MR. GEERCKEN: No objection, your Honor.

6 THE COURT: Received.

7 (Respondent's Exhibits A, B, C, and I received in
8 evidence)

9 Q. Mr. Aliev, you conspired with Mr. Potanin to break the law?

10 A. Sir, I would never do such a thing. Let me take a
11 tangential excursion here. We are U.S. fund managers. The
12 team that I hired to work for me are graduates of major U.S.
13 universities who reside in the United States, who would never,
14 ever do anything to break the law. And we are under the
15 supervision of a U.S. government body, the Securities and
16 Exchange Commission, live, at any time. We would never do any
17 such thing.

18 Q. But it is true that Mr. Potanin and Interros is a very
19 important company to Altpoint, right?

20 A. Regardless, they're an important company, like any investor
21 would be important to us. Without a question, it doesn't
22 change anything about what I said about our legal position. We
23 treat our investors equitably and with respect. Of course he's
24 important.

25 Q. If mr. Potanin and Interros said to hell with Altpoint,

1 would your company -- what would happen?

2 A. It would be affecting the business in the interim, but we
3 are a very competent management team. We would, like any fund
4 manager, we would go out and try to raise funds for our --
5 other funds from other investors. We have enormous credentials
6 at this point to do -- to raise from individuals and
7 institutions in the United States or elsewhere. We are one of
8 the top funds.

9 THE COURT: Do you do that now?

10 THE WITNESS: We do that -- to raise, we don't need to
11 raise. But if something happened with Interros, we would
12 organize a roadshow and a capital-raising initiative, contact
13 an investment bank who would take us around and who would raise
14 funds to manage. That's what fund managers do, all the time.

15 Q. Now, you testified that you recalled that the subpoena in
16 this case was served sometime in February of 2014. Do you
17 remember that?

18 A. The original subpoena was served at that time, correct.

19 Q. At that time, what did you ask -- Debevoise was then
20 representing you; is that right?

21 A. Correct.

22 Q. What did you ask Debevoise to do in connection with -- the
23 basic question, what did you ask them to do?

24 A. I asked them to comply with what was ordered by the Court,
25 to turn over the responsive documents that we had in our

1 possession. This is the only thing we could have done, and
2 this is what we instructed our counsel to do.

3 MR. CARDOZO: Your Honor, I would like to offer in
4 evidence at this point Joint Exhibit 17, which is the
5 declaration from the Debevoise attorney who produced those. I
6 don't believe there is any objection to that.

7 MR. GEERCKEN: No objection.

8 THE COURT: Received.

9 (Joint Exhibit 17 received in evidence)

10 Q. And to your knowledge -- and now I'm talking February --
11 were Altpoint documents produced at that time, documents from
12 the Altpoint server?

13 A. To my knowledge, in response to the original subpoena,
14 Altpoint documents were produced at that time.

15 Q. And at some point this time, you don't remember when, you
16 personally went through your personal e-mails; is that right?

17 A. That is correct.

18 Q. And what did you do with them?

19 A. I typed in the responsive words into the search engine,
20 produced and printed out all the documents that came up, and
21 turned them over to counsel.

22 Q. Now I want to go back to what were you doing for Interros
23 after this Rosbank transaction ended in 2010. Since 2010, have
24 you received any confidential information from Interros of any
25 kind?

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Aliev - cross

1 A. I've received exactly zero confidential information from
2 Interros, after the Rosbank transaction.

3 Q. And were you given any tasks by Interros to perform since
4 2010?

5 A. None whatsoever after the Rosbank transaction.

6 Q. Are you a member of the Interros fraud committee?

7 A. No. No, I'm not.

8 Q. Do you have a power of attorney from Interros?

9 A. Not at all.

10 Q. Do you have bank-signing authority of any kind?

11 A. No.

12 Q. Do you get board minutes?

13 A. Never.

14 Q. Did you get any financial statements from Interros?

15 A. Never.

16 Q. Are you an investor in Interros?

17 A. No.

18 Q. Are you a shareholder of any kind?

19 A. No.

20 Q. How many people since 2010 from Interros report to you?

21 A. Not one.

22 Q. Do you have any assistants at Interros?

23 A. None.

24 Q. When was the last time you had any assistance at all, from
25 Interros?

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Aliev - cross

1 A. When I worked at Interros, since I transitioned to the U.S.
2 in 2009, I had no assistants at Interros.

3 Q. Are you a boss of anyone at Interros?

4 A. Not at all.

5 Q. Now, you have an Interros e-mail account?

6 A. I don't have an Interros e-mail account.

7 Q. Did you ever have an Interros e-mail account?

8 A. I did when I worked at Interros.

9 Q. And did you learn whether or not that Interros account
10 exists today?

11 A. When counsel was searching the documents for this motion,
12 it emerged that it was shut down a longtime ago, at some point
13 in 2011, and of course I have never used it since I moved to
14 the United States. And at some point it was terminated. But I
15 don't have it.

16 Q. Do you have any access to Interros servers of any kind?

17 A. None whatsoever. It's physically impossible for me to do
18 anything.

19 Q. Who is the head of what you would call the U.S., the IT
20 department at Interros?

21 A. I have no idea.

22 Q. Do you know any Interros IT employees?

23 A. Not a single person.

24 Q. Now, outside of the IT department and outside of
25 Mr. Potanin and Marianna, the general counsel, whom do you know

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Aliev - cross

1 at Interros today?

2 A. I talk to Olga Zinovieva, the controller, and one of her
3 subordinates, who recently got hired to oversee their
4 investment in Altpoint.

5 Q. Anybody else?

6 A. Could be one-offs with maybe somebody from the controlling
7 function, but nobody else.

8 Q. And do you physically, since 2010, do you physically go to
9 Interros from time to time?

10 A. I do.

11 Q. For what purpose?

12 A. To report -- to submit our performance reports, as we are
13 required by the agreement that regulates our relationship,
14 which is called the limited partner agreement.

15 Q. When you go to Interros for these meetings, do you go to
16 your office?

17 A. I don't have an office.

18 Q. You don't have an office at Interros?

19 A. I don't.

20 Q. When was last time you had an office at Interros?

21 A. In 2008 and possibly for the beginning of 2009, and then I
22 left for New York.

23 Q. Do you have a security card of any kind to get into the
24 building?

25 A. No.

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Aliev - cross

1 Q. When you go there, you have to show an ID or something?

2 A. They don't know who I am. I check in at the reception desk
3 and get a pass, and then a security guard comes from the
4 relevant office and ushers me upstairs.

5 Q. Do you recall whether, when you worked at Interros in 2008,
6 was that the same situation, or security --

7 A. No. I had a security pass and I could enter the building
8 freely, as I was an employee, in Moscow.

9 Q. Now, if you take a look at Joint Exhibit 4-I -- sorry --
10 4-H, I think it is --

11 A. 4-H?

12 Q. I'm sorry. 4-G, the August 2, 2010 supplement.

13 A. Looking at it.

14 Q. Yes. That's the document where you say you are now a vice
15 president -- it says you are now a vice president. Is that
16 right?

17 A. This is an amendment to the labor agreement.

18 Q. And what does this document say as to where your place of
19 employment would be?

20 A. It says that the place -- one second?

21 Q. Section 1.2.

22 A. 1.2, the place of -- "for the employee, the following place
23 of employment is determined: city of Moscow."

24 Q. And approximately how many times do you go to Moscow this
25 year to -- wearing your Altpoint hat?

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Aliev - cross

1 A. Wearing my Altpoint hat, maybe two to three times a year.

2 Q. And how many times do you go to Moscow wearing your
3 Interros hat?

4 A. Never.

5 Q. And all of this that you've just described -- that is, your
6 lack of involvement with Interros -- that's been true ever
7 since your work on the Rosbank matter came to an end?

8 A. I'm sorry, repeat your question, please?

9 Q. All of the questions I've just been asking as to what you
10 don't do for Interros, has that been true ever since the
11 Rosbank transaction came to an end?

12 A. That is correct. I have no Interros involvement since.

13 Q. So is it fair to say that since -- withdrawn. And the
14 Rosbank transaction came to an end sometime in 2010; is that
15 right?

16 A. Correct.

17 Q. Is it fair to say that since then you have done absolutely
18 nothing for Interros?

19 A. Fair to say that.

20 Q. Now, I now ask you to look again at Exhibit 4-G, your
21 August 2 document.

22 A. I'm looking at it.

23 Q. And you see it says 1.6 is added, that you're performing
24 representative functions of the company in connection with
25 foreign investors and funds.

1 A. That's what it says.

2 Q. And since you signed this document, have you ever perform a
3 representative function on behalf of Interros in connection
4 with foreign investors and funds?

5 A. I have not performed any functions on behalf of Interros
6 with connection -- in relation to foreign investments and
7 funds. I am the fund manager, the third-party fund manager for
8 Interros.

9 Q. That's wearing your Altpoint hat.

10 A. That's wearing my Altpoint hat.

11 Q. Now I would ask you, Mr. Aliev, to take a look at Joint
12 Exhibit 18.

13 A. 8?

14 Q. 18. 18. Do you see that?

15 A. I am looking at it.

16 Q. Now, I would tell you that this is the expert report of the
17 Russian-law expert that the petitioner retained. And I would
18 ask you to take a look at paragraph 32 of that document.

19 A. Looking at it.

20 Q. Let me just read you the middle of the first sentence:

21 "Mr. Aliev had to have access information about Interros's main
22 assets and deals." See that?

23 A. Correct.

24 Q. Since 2010, have you had access to information about
25 Interros' assets and deals?

1 A. Only inasmuch as what they invest with me as a fund manager
2 at Altpoint.

3 Q. Now could you take a look at paragraph 34 of this document.

4 A. Right.

5 Q. Calling your attention to the first bullet point, did you
6 have access to documents and information through your Interros
7 e-mail, other e-mail accounts, and Interros document processing
8 system?

9 A. I don't have Interros's e-mail. I have absolutely no
10 possibility and no access to any of Interros's systems.

11 Q. And continuing on, do you have control of those document
12 systems in the form of the ability to request to be provided
13 with access to business e-mails, document processing systems,
14 or other sources?

15 A. I have had no need to have Interros documents. So I don't
16 know. But I have asked, when I was ordered to produce
17 documents, and my requests were rejected.

18 Q. Going down to the bottom of this paragraph of page 11 of
19 the report, did you have control over documents and information
20 in the form of ongoing orders to employees requesting that you
21 be provided with documents and information?

22 A. I have no such control.

23 Q. Now I want to ask you some questions about the regulations
24 that Mr. Geercken referred you to. That's Joint Exhibit 2,
25 again referring to 3.3, which is on the next page that we

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Aliev - cross

1 talked about.

2 A. Right.

3 Q. Since 2002 -- excuse me -- 2010, going down these
4 regulations in 3.2, did you represent Interros in dealing with
5 federal government agencies, local government agencies, media
6 outlets, public and non-commercial organizations, and Russian
7 and foreign legal entities and physical individuals?

8 A. No, I have not.

9 Q. Next bullet. Did you participate in conceptualizing and
10 developing the company's corporate culture?

11 A. Not at all.

12 Q. Did you participate in conceptualizing and implementing a
13 system for motivating and stimulating company employees?

14 A. No.

15 Q. Did you participate in developing a system for consistent
16 interaction by company management or company management bodies
17 with company shareholders as well as other interested parties?

18 A. Not at all.

19 Q. Did you facilitate the formulation of the social dimensions
20 of the company activities and support positive public opinion
21 about the company?

22 A. No.

23 Q. Did you participate in negotiations with major
24 counterparties and partners with Russia and abroad, with
25 individuals occupying senior government posts in the government

1 of the Russian federation and the government of the subjects of
2 the Russian federation, and participate in the activities of
3 non-commercial organizations, including public organizations?

4 A. I have not.

5 Q. And have you exercised any other authority in connection
6 with your company chartering and employment contracts?

7 A. Exercised no authority in that connection.

8 Q. Now I want to ask you, you say that it was not until
9 September that you realized you were under an obligation to try
10 to get the documents in Russia from Interros. Is that right?

11 A. That is correct.

12 Q. And after you learned that fact, what is the first thing
13 you did?

14 A. The first thing I did is that I hired counsel that's
15 independent from the Altpoint corporate representation,
16 Proskauer.

17 Q. And in that connection, do you recall asking Proskauer to
18 retain a Russian lawyer on your behalf?

19 A. I don't recall authorizing it, but I sought your -- I
20 sought the advice of the counsel as to what I could do.

21 Q. And do you know whether or not a Russian lawyer has in fact
22 been retained?

23 A. I know a Russian lawyer has in fact been retained now.

24 Q. Turning now to the fall of 2014, who was the president of
25 Interros?

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Aliev - cross

1 A. 2014, Mr. Potanin was the president of Interros.

2 Q. And who was the principal investor?

3 A. The principal -- beneficial investor is Mr. Potanin.

4 Q. And who is the CEO?

5 A. Mr. Barbashev.

6 Q. And who is the general counsel?

7 A. Marianna Zakharova.

8 Q. Did you, when you learned that you had to make this
9 personal effort, did you check your e-mail, your Interros
10 e-mail?

11 A. I don't have an Interros e-mail, so that there is exactly
12 nothing to check.

13 Q. Did you call the IT person at Interros?

14 A. I don't know anybody at IT at Interros.

15 Q. So what is the first thing you in fact did after you
16 learned that you had to make further effort? What's the first
17 thing you personally did, other than hire Proskauer?

18 A. I hired counsel and I sought advice, and I was trying to be
19 as cooperative and as helpful as I possibly could. There was
20 no --

21 Q. Personally -- excuse me for interrupting.

22 A. Sorry.

23 THE COURT: Counsel asked you what you did.

24 Q. Other than hiring --

25 A. I was bewildered, to be honest with you.

1 THE COURT: What did you do?

2 Q. Did you make any phone calls? Did you make any phone
3 calls?

4 A. I have done the only thing that a reasonable person in my
5 position could have done in answering the additional motion.
6 I've called the two people who I talked to at Interros and
7 Marianna, and I went in some detail with her as to the nature
8 of the motion that was subsequently filed against me.

9 Q. Let's do this one at a time. So with respect to the call
10 from Marianna, do you remember when that was?

11 A. Very early October. October 1.

12 Q. I call your attention now to Joint Exhibit 5 in the big
13 book. Can you tell us what that is?

14 A. This is an e-mail that I sent to Marianna to follow up on
15 my phone call.

16 Q. So approximately what time in October did you have a
17 telephone call with Marianna?

18 A. That same day.

19 Q. Now, to the best of your recollection, what is it that you
20 said to Marianna during that phone call and what did she say in
21 response?

22 A. To the best of my recollection, I said -- I explained to
23 her that I received an order from a U.S. district court to
24 produce Interros documents. I have explained to her that I
25 could face severe consequences, including going to prison, for

1 not complying with the court order. I have asked her if there
2 is any ability for me to access those documents. And she
3 flatly, manifestly denied all of my requests.

4 I have then told her that my counsel will be -- my
5 counsel would be calling her. And I have also told her that I
6 will go to Mr. Potanin to try to have him overrule her
7 decision.

8 Q. Did you ask her to explain to Mr. Potanin that you might be
9 calling?

10 A. I don't remember whether I have asked specifically. I told
11 her that I will be calling him directly.

12 Q. And after that phone call was concluded, you sent this
13 e-mail?

14 A. Correct. Then I sent the e-mail.

15 MR. CARDOZO: I offer it in evidence.

16 MR. GEERCKEN: No objection.

17 THE COURT: Received. 5.

18 MR. CARDOZO: Joint Exhibit 5.

19 (Joint Exhibit 5 received in evidence)

20 Q. Now, you say you also called -- withdrawn.

21 Did you at some point in time receive the letter that
22 we've reviewed from Mr. Barbashev to you?

23 A. Correct. About a week later Marianna responded, I believe
24 to this e-mail, attaching a letter from the CEO of Interros.

25 Q. And did you know -- you had not spoken personally with

1 Mr. Barbashev; is that right?

2 A. I had not.

3 Q. And bottom line, this letter says, you're not going to get
4 the documents; is that right?

5 A. It's rather clear. He told me that I had no right to even
6 make such a request, or to get -- or that I will -- that I was
7 able to get the documents. Correct.

8 Q. Will you take a look at Respondent's Exhibit H, in the
9 small book. Do you recognize that document?

10 A. This is Marianna's e-mail to me in response to my e-mail
11 that I sent to her after the phone conversation.

12 Q. And what letters does she attach to that? The attachment
13 to that e-mail?

14 A. The attachment to that e-mail was the letter signed by
15 Interros's CEO, Mr. Barbashev.

16 Q. OK. Now, you say that in addition to your communications
17 with Marianna, you also had conversations with Mr. Buchanan.
18 Is that right?

19 A. Correct. I called him too.

20 Q. And what happened with that phone call?

21 A. It was a substantially similar conversation to the
22 conversation I had with Marianna. I informed him that I have a
23 U.S. court order to produce Interros's documents. I have
24 explained to him the consequences that I may face if I don't
25 comply. And he told me -- he was sympathetic -- he said that

1 he was hoping that the U.S. court will understand that you have
2 no physical or legal ability to obtain such documents and that
3 my request will be rejected. That's all there was.

4 Q. During your call with Marianna, I think you said you told
5 her that I would be calling her as well; is that right?

6 A. Correct.

7 MR. CARDOZO: Your Honor, I would like to call your
8 attention to Joint Exhibit 16.

9 THE COURT: Yes, sir.

10 MR. CARDOZO: Which is my declaration.

11 THE COURT: Yes, sir.

12 MR. CARDOZO: I would like to offer, at this point in
13 time, I would like to offer that document in evidence.

14 MR. GEERCKEN: Your Honor, I have no objection. My
15 understanding is that all the Joint Exhibits are in evidence.

16 MR. CARDOZO: I was just -- thought the chronology
17 would be helpful.

18 THE COURT: OK. All the Joint Exhibits are received.

19 MR. CARDOZO: OK. Thank you, your Honor.

20 (Joint Exhibits received in evidence)

21 Q. Mr. Aliev, I wanted to, for a few minutes, refer back to
22 that extra report, to Joint Exhibit 18. Do you have that
23 again?

24 THE COURT: 18?

25 MR. CARDOZO: 18, yes.

1 Q. Do you have that?

2 A. I am looking at it.

3 Q. All right. I ask you to take a look now at paragraph 36,
4 the first subparagraph. Did you request employees of Interros
5 for the electronic or paper-based documents, processing system?

6 A. I don't have any employees of Interros. I called the GC.

7 Q. And did you seek access to the business e-mails of
8 Interros?

9 A. I have no e-mail account at Interros, so I could not have
10 physically done so.

11 Q. And who at Interros could you -- did you know who you could
12 have called besides Marianna and Mr. Potanin?

13 A. The only -- I would like to emphasize, this is a very
14 formal relationship. I talked to general counsel. I talked to
15 the controller. And from time to time I talked to Mr. Potanin.
16 I never talked to anybody else. I don't know hardly anybody
17 else.

18 Q. Have you filed any legal proceedings of any kind against
19 Interros?

20 A. I sought the advice of counsel, but I did not file any
21 legal proceedings against Interros.

22 MR. CARDOZO: Just a housekeeping matter. Your Honor,
23 I think I neglected to offer in evidence Respondent's Exhibit
24 H, which we referred to a moment ago, which is the transmittal
25 letter from -- response to Marianna and attaching.

1 MR. GEERCKEN: No objection, your Honor.

2 THE COURT: Received.

3 (Respondent's Exhibit H received in evidence)

4 Q. Mr. Aliev, if the Court today orders you to take further
5 steps to obtain these documents, what would you do?

6 A. Counselor, I will be very entirely frank with you. I would
7 be at a complete loss. I wouldn't know what to do.

8 Physically, humanly, legally possible. I have exercised any
9 and all authority I have as an -- I don't, as an Interros
10 employee, I have asked for the documents. I have called the
11 general counsel. I have called the top guy at Interros. I
12 have no idea what else I could physically do. It's as simple
13 as that. I would like to be very helpful but I can't.

14 MR. CARDOZO: Thank.

15 Q. Thank you.

16 MR. CARDOZO: No further questions, your Honor.

17 THE COURT: Redirect, counsel?

18 MR. GEERCKEN: Yes. May I have a few minutes?

19 REDIRECT EXAMINATION

20 BY MR. GEERCKEN:

21 Q. Mr. Aliev, you've talked a little bit about your
22 relationship with Mr. Potanin today. You have a social
23 relationship with him, correct?

24 A. As I have said, social contact was initiated by him.

25 Q. Right. And you have a friendly relationship with him,

1 correct?

2 A. Friendly relationship.

3 Q. And you were invited to the birthday party and other
4 gatherings that you went to with him?

5 A. His office invites me to social functions, correct.

6 Q. If I draw your attention to page 38 of your transcript --

7 A. What exhibit is that?

8 Q. That was your deposition transcript.

9 A. Oh, this, OK. Page 38?

10 Q. That's correct, sir.

11 A. Looking at it.

12 Q. Beginning with line 2, can you read lines 2 through 19 into
13 the record.

14 A. "Q. When did you begin to see or have social interactions
15 with Mr. Potanin?

16 "A. I think, as he respected me more in business, he felt
17 probably more comfortable with having me at social function.

18 "Q. And was that sometime while you were still in Moscow?

19 "A. We hardly had any contact while I was in Moscow outside of
20 the office.

21 "Q. That really developed more so after you left Moscow.

22 "A. After I left Moscow, I was invited to his birthday party
23 and for gatherings that he has at Interros, and it will be
24 outside the office, off-site meetings in France or something
25 like that."

1 Q. OK. And that testimony was accurate at the time you gave
2 it, correct?

3 A. Correct.

4 Q. And in fact, after you left Moscow, you agreed to hire
5 Mr. Potanin's son at Altpoint, correct?

6 A. He suggested that I should hire his son as an analyst, as
7 an intern/analyst.

8 Q. And that's after you left Moscow, correct?

9 A. Correct.

10 Q. You talked a little bit about always engaging separate
11 counsel from Interros, correct?

12 A. I engaged separate counsel from Interros when we negotiate
13 Altpoint versus Interros matters and in the subsequent motion
14 because of the confidential conflicts, correct.

15 Q. But initially you engaged Debevoise, correct, as counsel
16 for yourself and Altpoint?

17 A. Correct, who put together Altpoint's foundation documents.

18 Q. Right. And you understood at that time that Debevoise had
19 also represented Interros's and Mr. Potanin's interests,
20 correct?

21 A. Correct.

22 Q. In fact, he represented all of Altpoint's -- rather --
23 yes -- all of Altpoint's portfolio companies in connection with
24 1782 proceedings that requested -- similar information has been
25 requested of Altpoint, correct?

1 A. Yes. Initially we did not think that it was be in conflict
2 retaining the same counsel as we have used for our charter
3 documents and our negotiations with Interros. That was at the
4 time represented by different counsel.

5 Q. My question to you, though, sir, was, you understood that
6 Debevoise also represented the portfolio companies of Altpoint
7 in connection with the discovery requests Mrs. Potanina had put
8 forth, correct?

9 A. Some portfolio companies, correct.

10 Q. That's right. In fact, you understood that Mister -- that,
11 rather, Debevoise represented a travel agent in Michigan in
12 connection with Mrs. Potanina's request for information,
13 correct?

14 A. I actually didn't know that, no.

15 Q. And did you understand that the portfolio companies did not
16 pay for the legal services of Debevoise?

17 A. I understand this is not correct. One of the portfolio
18 companies retained their own counsel and paid for it
19 themselves. And I believe two others that were subpoenaed,
20 Debevoise was their counsel.

21 Q. And those two companies, do you know who paid their legal
22 fees, the Debevoise legal fees?

23 A. I don't know whether there was any netting with portfolio
24 companies. I don't know.

25 Q. You simply just don't know.

1 A. Correct.

2 Q. You talked a little bit about being kind of unknown at
3 Interros, correct?

4 A. People at Interros in general don't know what I look like
5 or who I am unless they look at the website.

6 Q. So Interros does hold you out as a representative of the
7 company, correct?

8 A. Interros displays my picture in alphabetical order on their
9 website.

10 Q. And I would draw your attention to petitioner's exhibits,
11 and in particular Exhibits B, C, D, and E.

12 A. Joint Exhibits?

13 Q. No, these are petitioner's exhibits.

14 THE COURT: They are in the other little book.

15 Q. Have you seen those documents before, sir?

16 A. I have as part of this motion.

17 Q. And understood that this information appeared on the
18 website of Interros at various times, correct?

19 A. And I understood that that's what appears on our website
20 right now.

21 Q. OK. In fact, Exhibit B, Petitioner's B, you see the date
22 in the upper left-hand corner?

23 A. B for bravo?

24 Q. That's correct.

25 A. Looking at it.

1 Q. That's from June 4, 2015, correct?

2 A. Correct.

3 Q. And Exhibit C is likewise from June 4, 2015?

4 A. That is correct.

5 Q. And then if you look at Exhibit D, that's from January 24,
6 2014, correct?

7 A. That is correct.

8 Q. And if you look at January, Exhibit D, there are two vice
9 presidents listed in January of 2014, correct?

10 MR. CARDOZO: Objection, your Honor. None of these
11 documents are, should be received in evidence. I think it's
12 inappropriate to ask the witness's these questions.

13 THE COURT: Counsel?

14 MR. GEERCKEN: I would have moved for, we move for
15 their admission into evidence. And I think the witness has
16 authenticated the documents, saying that they appeared on the
17 Interros website, and the case law, I think, is very
18 straightforward; if it's authenticated, it should come in as
19 evidence.

20 MR. CARDOZO: The document may appear on its website.
21 It doesn't mean that they are being offered for anything other
22 than the fact that it appears on its website.

23 THE WITNESS: Sir, I looked at --

24 THE COURT: I'm sorry, sir. There is an objection.

25 Are you offering them for the truth of the documents?

1 MR. GEERCKEN: I'm offering them --

2 THE COURT: Or that they appeared on the website?

3 MR. GEERCKEN: The latter, your Honor, that they
4 appeared on the website.

5 MR. CARDOZO: No objection.

6 THE COURT: Received.

7 (Petitioner's Exhibit D received in evidence)

8 Q. And there were two vice presidents listed on January 24,
9 2014 in Exhibit D, correct, Mr. Aliev?

10 A. That's what this printout says.

11 Q. And by June 4, 2015, now at Petitioner's D there is only
12 one vice president listed, correct?

13 A. That's what the printout says.

14 Q. And that's you, correct?

15 A. Correct.

16 Q. And Exhibit E, Petitioner's E, you're also listed as the
17 sole vice president, and that's dated October 24, 2014; is that
18 correct?

19 A. It looks like the exact same printout.

20 Q. And that date is correct, October 24, 2014?

21 A. Yes, the same printout.

22 Q. And finally, Exhibit F of petitioner's book, that is
23 certain biographical information about you dated October 24,
24 2014, correct?

25 A. Correct.

1 MR. GEERCKEN: Your Honor, we're offering Exhibits B
2 through G into evidence as stated.

3 THE COURT: I think you already offered them, and you
4 offered them for the fact that they appeared on Interros's
5 website.

6 MR. GEERCKEN: Correct.

7 THE COURT: I thought I accepted them.

8 MR. GEERCKEN: I just wanted to make sure I got all of
9 them.

10 MR. CARDOZO: I think Mr. Geercken misspoke when he
11 offered G. I don't think you have offered G.

12 MR. GEERCKEN: Forgive me. It's B through F, so I did
13 get it right.

14 THE COURT: OK. Thank you.

15 (Plaintiff's Exhibits B through F received in
16 evidence)

17 Q. Now, Mr. Aliev, you understood that Exhibit F had been up
18 on the website of Interros for a while, correct?

19 A. What is it I understand? I'm sorry? Your question?

20 Q. Exhibit F had been on Interros's website for some time,
21 correct?

22 A. I understood from the printout of today's case that that's
23 the case, correct.

24 Q. At any time did you ever seek to have your name or your
25 picture removed from the Interros website?

1 A. Sir, when the first subpoena and the motion was filed, I
2 didn't want to do anything that could have affected -- that
3 could have lead to accusations of interfering with evidence. I
4 most certainly don't care about what Interros displays on their
5 website. But I didn't do anything to affect the materials
6 anywhere.

7 Q. So you never sought to have your name on your image removed
8 from the Interros website, correct?

9 A. I never have.

10 Q. Drawing your attention to Exhibit 4-G, can you take a look
11 at that, sir. That's a Joint Exhibit.

12 A. Joint Exhibit?

13 Q. Correct. Drawing your attention again, this is the
14 supplemental agreement to your employment agreement dated
15 August 2, 2010. Is that correct?

16 A. Correct.

17 Q. And there are certain responsibilities, rights, and
18 obligations of the vice president, and a description of your
19 representative functions described therein, correct?

20 A. The document speaks for itself. That's what it says.

21 Q. OK. Are you aware of any document that relieved of you any
22 of those functions, rights, or obligations?

23 A. No.

24 MR. GEERCKEN: Thank you, your Honor. That's all I
25 have for now.

1 THE COURT: Thank you.

2 MR. CARDOZO: No further questions, your Honor.

3 THE COURT: All right. You may step down, sir.

4 Thank you.

5 (Witness excused)

6 THE COURT: How would you like to proceed now,
7 counsel?

8 MR. GEERCKEN: Your Honor, since we have the
9 deposition, the other transcript deposition designations
10 already before you, I think it would be appropriate just to sum
11 up.

12 THE COURT: All right, sir. How long would you like?

13 MR. GEERCKEN: I don't think I need more than ten
14 minutes.

15 THE COURT: Sure. Go ahead. Do you need a break?

16 MR. GEERCKEN: It would be great if I could have just
17 a couple of minutes to gather my thoughts.

18 THE COURT: Sure. Five minutes.

19 MR. GEERCKEN: Thank you, your Honor.

20 (Recess)

21 THE COURT: Mr. Geercken.

22 MR. GEERCKEN: Thank you, your Honor.

23 Your Honor, it's been now a full year since you
24 ordered, your Honor ordered Mr. Aliev to produce documents,
25 five categories of documents listed in your order of June 17.

1 Since that time, Mr. Aliev has not complied with the order. He
2 has sought reconsideration. And only in that process did he
3 begin seeking information.

4 The new evidence that has been presented since that
5 time is essentially some of the corporate constituent documents
6 of Interros. They include the charter. They include the
7 regulation. And the regulation makes clear, it speaks in
8 mandatory language. It speaks of rights and obligations of the
9 vice president. It talks about how he shall represent the
10 company before public authorities, government authorities, as
11 Mr. Aliev said here today. It says that he shall represent the
12 company in connection with negotiations with major
13 counterparties.

14 It also talks about how he is entitled to get
15 information from Interros employees that are within the scope
16 of his rights and responsibilities. What Mr. Aliev admitted to
17 here today is that while he contacted Mr. Potanin and then he
18 contacted management, he did not raise with them at any time
19 the rights and obligations that he had under the regulation.
20 Nor did Mr. Potanin or Ms. Zakharova or Mr. Barbashev ever
21 specifically reference the regulation and take issue with it.
22 Instead, he -- and he also didn't seek any independent advice
23 of counsel shall Russian counsel, with respect to the issue,
24 until he finally had a Russian expert bring up the regulation
25 issue.

1 Mr. Aliev also admits that he had a social
2 relationship with Mr. Potanin and was friendly with him, even
3 hired his own son, Mr. Potanin's own son to work with him, at
4 Mr. Potanin's request. Predictably, by virtue of this
5 relationship and by virtue of understanding the dynamic between
6 Mrs. Potanina and Mr. Potanin, he well knew what the response
7 would be in regard to his request for information.

8 The other significant evidence that's been adduced has
9 been the evidence through the experts that have testified by
10 way of deposition in this matter. All of the experts agreed
11 that the regulation, Article 22 of the Russian Labor Code, and
12 the charter are the constituent documents, and the agreement,
13 the labor agreement between Mr. Aliev and Interros are the
14 constituent documents from which his rights and obligations
15 arise. All the experts agree, Mr. Aliev agrees, his
16 contractual relationship with the company has not been
17 terminated. Although his salary has been reduced over time,
18 Mr. Aliev acknowledges that he was the one that wanted to keep
19 the title and retain a position with Interros.

20 And that had a value to it. His own expert agreed
21 that reduction of salary did not and should not affect the
22 responsibilities and obligations of a vice president under
23 Russian law. His own expert agreed that if Mr. Aliev were to
24 be given a project or if he were involved in a project, he
25 would have access to and could have access to non-public

1 confidential information, under certain circumstances. The
2 expert of Mr. Aliev also does not take issue with the
3 conclusion of petitioner's expert that one of Aliev's job
4 functions as a vice president is to represent Interros before
5 public authorities such as U.S. courts. And Mr. Aliev, by
6 virtue of receiving a subpoena and being party to this matter,
7 had the obligation under the regulations to represent Interros
8 and to respond.

9 Now, much is made about the regulation. At some point
10 Mr. Aliev equivocated. First he said the language shouldn't
11 have been "shall" perform certain functions, rather, "is
12 directed to." And at one point he said "can." But there has
13 been no objection to the translation that has been provided by
14 any expert. And the regulations on their face speak of
15 mandatory rights and responsibilities, one of which is the
16 right to receive documentation that would be required for a job
17 function.

18 We discussed earlier, your Honor, some of the case law
19 that does not relieve a party or a non-party from producing
20 information just because the company that has direct ownership
21 of it doesn't want them to. We talked about the *IBM* case. We
22 have not found any further information on that. We talked
23 about petitioner's, or, rather, Mr. Aliev's counsel's reference
24 to the *Shcherbakovskiy* case. And in that case there was
25 subsequent history. That case was remanded, and upon remand it

1 was determined that the finding remained the same, that a
2 sanction was imposed against the plaintiff, who claimed that
3 Russian law precluded him from obtaining and providing
4 information, and the Southern District of New York imposed a
5 sanction of \$1.8 million in a default judgment. And that was
6 later affirmed by the Second Circuit on December 14, 2011, in
7 450 F.App'x 87.

8 So, your Honor, I guess what we're saying to you is
9 that a foreign entity cannot override this Court's
10 jurisprudence. And efforts by Interros to thwart production of
11 documents, given the record that has presented, given the
12 regulation and the constituent documents, we submit counsel did
13 nothing more than an effort to circumvent or subvert this
14 Court's orders. And we would respectfully request that the
15 Court compel Mr. Aliev to provide the information that has
16 previously been ordered to be produced.

17 THE COURT: May I ask you two questions, please,
18 counsel.

19 MR. GEERCKEN: Sure.

20 THE COURT: First is a structural kind of
21 burden-of-proof question. The showing that has been made with
22 respect to the regulation, the employment contract, etc., etc.,
23 certainly suggests that Mr. Aliev has the authority to do what
24 you want, to comply. Then, in opposition, he comes in and
25 says, for 45 reasons I can't do it. Then what happens? So

1 it's like an employment case. A prima facie case has been
2 made. The opposition comes in. Where do you say we are now on
3 the burden of proof?

4 MR. GEERCKEN: I think where we were on the burden --
5 and I'll try and think it through with you out loud here, your
6 Honor -- is that they came forward with certain evidence and
7 affidavits for the first time, after two of your Honor's
8 orders, and claimed, Mr. Aliev claimed what had been claimed
9 before: I just can't get the information. I think that was new
10 evidence that you considered. And then you said, OK, I'll
11 grant the motion, I want to have an evidentiary hearing. I
12 think the burden then was, did this new information -- well, I
13 guess the burden was on us, I will assume that burden, to show
14 control, either legal control or ability to access the
15 information in question.

16 And I believe that where we are right now is that
17 we've taken discovery on this, we've obtained the documents,
18 and we've heard from experts, and we've shown that, at a
19 minimum, that he has the legal authority to obtain this
20 information by virtue of his title and by virtue of the
21 documents, the constituent documents of the company.

22 THE COURT: I probably agree with you on that. But
23 I'm asking you where we are now. You have now come in and
24 said, assuming -- I don't think you said this -- but assuming I
25 have the legal authority, I simply can't do it.

1 MR. GEERCKEN: Well, I think you can, your Honor --

2 THE COURT: Mr. Aliev said, I simply cannot do it for
3 all these thousands of reasons.

4 MR. GEERCKEN: Right.

5 THE COURT: So where does that leave us, then, in
6 terms of burden of proof?

7 MR. GEERCKEN: I think that leaves you in a situation
8 where you have to weigh the credibility of the excuses that
9 were made and of Mr. Aliev and the other evidence that was
10 presented before you. And I think if you come to the
11 conclusion that we are correct that he has the authority and
12 ability under the regulation --

13 THE COURT: Which are two things, authority and
14 ability.

15 MR. GEERCKEN: Right.

16 THE COURT: And he's saying, I don't have the ability.

17 MR. GEERCKEN: That's right. It's an either/or test.
18 And we believe that we've shown the legal authority. It's
19 difficult for us at this point to give you anything more on the
20 ability issue, other than the testimony that we've heard from
21 his expert this said, yes, if there were a new matter that came
22 up, even he agreed that he would likely have, or I guess his
23 language was, he would possibly have to obtain other non-public
24 information and would have the right to access that information
25 under the right circumstances.

1 So that's we are on the ability prong. On the legal
2 authority prong I think we're really strong. And the rest is,
3 I think, a decision point for you.

4 THE COURT: Let me ask you a factual question. At
5 some point just now you said that when Mr. Aliev asked
6 Mr. Potanin for the documents, he well knew what the answer was
7 going to be. Given the relationship here, I think, what if
8 Mr. Potanin decided, I am shutting this thing down, I don't
9 care about his legal authority, I don't care, I am not turning
10 these documents over, I'm not letting anybody under my control
11 turn these documents over? Then where are we on the ability
12 prong? I'm not so sure that even you think it's farfetched
13 that Mr. Potanin would have done such a thing.

14 MR. GEERCKEN: Of course it has crossed my mind, your
15 Honor.

16 THE COURT: I imagine.

17 MR. GEERCKEN: And it's a difficult issue. But I
18 think that the ramification of that, or the potential
19 consequence is that foreign parties will try and take action to
20 thwart court orders, and they will say, you know, by virtue of
21 what we have done, there is no, you know, the court order in
22 the United States will have no effect on you even though you,
23 non-party or third-party witness, are subject to the
24 jurisdiction of the court.

25 THE COURT: I get that. But obviously the

1 complicating factor in this case that we don't see in most
2 cases is that Mr. Aliev's position, which you say gives him
3 access, is also a position in the opponent company, more or
4 less, right? That is the complicating factor that we don't see
5 in many of the cases, or any of them, as far as I can tell.
6 And so I ask you -- you're welcome to comment on that. But
7 then the question is, what happens next? Let's say the order
8 is reissued, Mr. Aliev, you have to turn this stuff over, he
9 doesn't, then you fine him for a while, then we put him in the
10 MCC for a while, and meanwhile, Mr. Potanin is sitting there
11 and saying, well, I don't know, too bad, you know, I'm not
12 turning over the documents. How does the coercion, which civil
13 contempt generally is intended to effect, how does it work in
14 this case, where we have an actual party opponent in the
15 underlying action in charge?

16 MR. GEERCKEN: It's a situation where, you're right,
17 where we have the party opponent in charge. Mr. Potanin pulls
18 all the strings. He has sent the vice president here in the
19 United States, and is trying to avoid consequences. But I
20 guess, if the sanction affects Mr. Aliev and his ability to
21 perform services here, at some point, it is negatively
22 impacting Interros's interests in the United States. And that
23 is the lever that could compel Mr. Potanin and Interros to
24 comply. And we won't know that until we follow through.

25 The easy way out, your Honor, I'll acknowledge, is,

1 looks like he can't do it, and, you know, sorry about that.
2 But I believe the jurisprudence -- we're in a court of law and
3 we should proceed. After we have made this showing, I think
4 your Honor has the authority and in fact under the
5 jurisprudence would be required to reissue the order, and issue
6 some form of compulsion, and see where that takes us.

7 THE COURT: Well, the normal progression, I guess,
8 would be, after a finding, lock them up, and then generally I
9 think it's about after 18 or 24 months, a civil contemnor may
10 come back to the court and say, see, I told you it wasn't going
11 to do any good, now you need to let me out. And I think the
12 Second Circuit does require us to do that.

13 MR. GEERCKEN: And that may be the case. But I don't
14 want to short-circuit the process, your Honor. I understand
15 it's a difficult dynamic that we're dealing with here today.
16 But, again, I come back to the jurisprudence and what we have
17 shown, and I think the process should play out further, to see
18 if we can -- because we don't think he's done everything he can
19 do. He hasn't sought -- one of the things that Mr. Kulkov, our
20 expert, talked about was, it may be a suit, maybe it's a
21 regulatory fine. Maybe there's other negotiation that
22 Mr. Aliev can engage in. And I think a reconfirmation of your
23 order will encourage, at least Mr. Aliev, to pursue these
24 options. And Mr. Potanin will recognize that a key
25 representative in the United States will be hampered in his

1 other duties for him. And that may result in, you know, the
2 production of the information that is required.

3 THE COURT: Your position is, put him in so he can't
4 manage the money.

5 MR. GEERCKEN: Well, I wouldn't -- I'm not saying
6 immediately. I'm saying that if there is some other form of
7 sanction, a monetary sanction that could begin at first, I
8 think Mr. Aliev would take some other action. Certainly we
9 would have more communication. And if it did come to pass that
10 the Court and we are stonewalled again, I think that, you know,
11 mandatory detention could be an option.

12 THE COURT: All right. Thank you.

13 MR. GEERCKEN: Thank you, your Honor.

14 THE COURT: Mr. Cardozo.

15 MR. CARDOZO: Thank you, your Honor.

16 First of all, with respect to the burden of proof
17 issue, it seems to me that the question at the moment is,
18 should you order production of these documents. It's as
19 though -- we all know the procedural history of this case --
20 but it is as though this motion was made, you did grant our
21 motion for reargument, and therefore the burden remains on the
22 petitioner to show that we have, that Mr. Aliev has access and
23 control. That's the burden.

24 Now, assuming that is correct, the facts here really
25 are not in dispute. I don't think there is any challenge to

1 the fact that for the last five years Mr. Aliev has not done
2 anything for Interros, after that Rosbank situation. No
3 question that he remains a signatory to the employment
4 agreement. No question he hasn't received a salary since that
5 time. I don't want to repeat all of that. No question that
6 Interros is an important client. No question that over 67,000
7 pages of documents have been produced in response to this
8 subpoena, many from Altpoint and some from Mr. Aliev's personal
9 account. There is no question about any of that.

10 So before I get to the dispute over the experts and
11 what the meaning of the regulation is, what does the case law
12 say about this? I go back to Judge Chin's opinion. The guy
13 asked and asked and asked, and the person he was trying to get
14 the documents from said, no, no, no, and Judge Chin said,
15 nothing more I can do. The case that Mr. Geercken mentioned
16 was a case where the person they were trying to get the
17 documents from was a 40 percent owner of the company. We don't
18 have that situation here. No question that Altpoint and
19 Interros are separate companies. No question that there is an
20 important relationship there. But that doesn't constitute
21 control, as a matter of U.S. law, before I get to the Russian
22 law. The cases say you have to look at the facts. If this was
23 a subsidiary-parent situation, it doesn't ipso facto follow
24 that the sub has control over the parent. You have to look at
25 the underlying facts. And I think we've heard the facts here

1 are that there is simply no relationship that you can use to
2 get these documents. It's unfortunate, perhaps, that he
3 doesn't know anybody other than the top people at Interros.
4 But that's a fact. I don't think there's any dispute about
5 that.

6 So what is it that changes the fact that there's no
7 showing at all that he can get the documents? That gets us to
8 the question of Russian law. And I'm sure your Honor will
9 study the reports and depositions of the two experts. Their
10 expert says, I don't think it's a question of whether the
11 translation of the Russian regs was accurate or not, I think
12 it's a question of, what do those regs mean? Do they mean you
13 must represent the company before public authorities or what
14 have you, or that you can represent? Yes, it says "shall."
15 That's what it says. Our expert says that means that if you
16 are asked to, for example, represent a company before public
17 authority, Article 22 of the Russian labor law requires that
18 the company give you the documents in order to carry out the
19 job they ask you to perform. But our expert says, if they
20 never ask you to do that, even if the reg says you can do it,
21 you don't have a right to demand the documents to perform a
22 function that the company has not asked you to perform.

23 And I call your particular attention to paragraph 27
24 of our expert's report and pages 99 to 93 and 106, in which our
25 expert -- I don't need to go through the preceding

1 qualifications -- our expert says these regulations mean you
2 can do that, you are authorized to do these functions, but you
3 are not entitled to the document unless you are asked to
4 perform the function. And he has not been asked to perform the
5 function. I don't think anyone disputes that.

6 Their expert says, no, no, no, I admit, he says, on
7 pages 60 to 62 of his deposition, I've seen no evidence that
8 Mr. Aliev performed any of these functions, I admit that. But
9 he says that's irrelevant. He says, on page 62, even though he
10 has done none of these functions for the last five years, he
11 still has the right to get those documents. That's a legal
12 question under Russian law. We have competing experts on that
13 point.

14 So then the question remains, which is the last series
15 of questions I think you were asking Mr. Geercken, what else
16 should he do? How does he get the control? How do you get
17 these documents? We have a fact. Has the petitioner satisfied
18 her burden of proving that he has control over these documents,
19 based upon the evidence you've heard? I submit to you, your
20 Honor, that he clearly does not. You don't put someone in jail
21 to say, well, maybe the facts will change if someone is in
22 jail. The fact is, he called the people he knew, the people he
23 dealt with. The expert says he should have called an IT -- the
24 expert who read his deposition, Mr. Aliev's deposition -- said
25 he should have called the IT department. There's nothing he

1 could have done there. So how can you order him, put him in
2 jail until he calls the IT department, that he doesn't know, or
3 to say, gee whiz, I hope that maybe Mr. Potanin will have a
4 little sympathy for Mr. Aliev when he sees he's in the
5 Manhattan detention center. That's not what the law is. You
6 don't do that.

7 He tried every possible way to get these documents.
8 Their expert says, well, he should have sued. I think that's
9 another legal question for you. And I submit to you, your
10 Honor, it's one thing under 1782 to say you've got to pull out
11 the stops, go to Russia, ask for the documents; it's another
12 thing for a third party to have to go to the expense of hiring
13 a lawyer in Russia and arguing a case which his expert says
14 you're going to lose. That's not what the law is.

15 And then I will just suggest this. There are
16 proceedings pending in Russia brought by Mrs. Potanina against
17 Interros and various other companies. I'm not familiar with
18 the names. They obviously relate to the divorce and the asset
19 issue. I'm not familiar with the nature of those proceedings.
20 But before someone can be ordered to bring a lawsuit in Russia
21 to help Mrs. Potanina get documents, the question certainly
22 arises, why isn't Mrs. Potanina doing that? And the
23 interpretation that we urged here is that in a 1782 proceeding,
24 the individual has to go to the foreign country, bring a
25 lawsuit, if he or she wins, bring the documents back to New

1 York to produce in response to the 1782 subpoena, to give the
2 documents to go back to Russia. That makes no sense, your
3 Honor. I'm sorry that Mrs. Potanina is in this situation. But
4 it is totally inequitable to suggest that my client has to go
5 to that expense and trouble. And it would be pretty ironic to
6 say the least if Mrs. Potanina can't get these documents from
7 Russia, but my client should? And give them to her?

8 So I come back to the underlying issues that I would
9 ask you to think about. Number one, Russian law does not
10 require Interros to give him these documents, because he has
11 not been asked to perform a task. That's a critical fact,
12 number one.

13 Critical fact number two is, under U.S. procedural
14 law, you have to show that he has an ability to get the
15 documents. And the only ability that has not been exhausted is
16 for him to bring a lawsuit in Russia. There is no case that we
17 have had that suggests that under 1782, the ultimate extreme is
18 to order the respondent to bring a lawsuit in a foreign
19 country. It's one thing, as you said *Microsoft* case, to order
20 someone -- and I understand that is not a 1782 proceeding --
21 it's one thing to order someone to go, push the button on the
22 computer and the like. Quite another thing to order him to
23 bring a lawsuit.

24 THE COURT: Does the record reflect that Mrs. Potanina
25 is in fact suing Interros in Russia?

1 MR. CARDOZO: We have listed as an exhibit the only
2 thing we could get off of a website, equivalent of a website --

3 THE COURT: They don't have Pacer?

4 MR. CARDOZO: For some reason Pacer hasn't reached
5 Russia yet. And we're also told, your Honor, that we can't get
6 the underlying papers in the case. We did through our
7 expert -- I really can't --

8 THE COURT: I have it all memorized but maybe you
9 could refresh my recollection.

10 MR. CARDOZO: There are various proceedings and a
11 court hearing, according to, I think it's Google, to the CNN
12 report, that she has a July 1 preliminary hearing in Russia on
13 these cases. I don't want to represent to you that I know --

14 THE COURT: Counsel has stepped up to help you out.

15 MR. CARDOZO: It's Respondent's Exhibit L, your Honor.

16 THE COURT: Apparently the people assisting us are on
17 top of it.

18 MR. CARDOZO: Fortunately for me I have two
19 outstanding assistants, your Honor.

20 THE COURT: And I have an equally outstanding law
21 clerk.

22 MR. CARDOZO: Thank you.

23 There is a translation, your Honor, on the
24 second-to-last page, and you will see that defendant, the
25 fourth from the bottom, ZAOHC Interros.

1 THE COURT: Yes.

2 MR. CARDOZO: Again, I don't want to mislead the
3 Court.

4 THE COURT: Plaintiff, is that Mrs. Potanina?

5 MR. CARDOZO: Yes.

6 THE COURT: Thank you.

7 MR. CARDOZO: So I would just conclude that to suggest
8 that we should close our eyes to the reality and say, well,
9 maybe if we put him in jail, then Mr. Potanin will feel sorry
10 for him, that's not the law. He has done everything he
11 possibly could, and the motion should be denied.

12 THE COURT: All right. Thank you.

13 Mr. Geercken, is there anything you wanted to add?

14 MR. GEERCKEN: I just wanted to add a couple very
15 quick points, your Honor.

16 THE COURT: Yes, sir.

17 MR. GEERCKEN: We heard a lot about proceedings in
18 Russia. And we talked about this at the very instant when we
19 brought these proceedings. The reason we brought these
20 proceedings, and we laid it out in our papers, is that we can't
21 get access to all the information in Russia, even if Interros
22 is a party.

23 Now, this action, the first time we saw that document
24 from opposing counsel was a few days ago, but we understand
25 that there is an action pending. We understand that discovery

1 is not permitted against Interros. That's the communication
2 that we've received from our counsel. But be that as it may,
3 that's not the test. As your Honor noted in the June 17th
4 order, the Second Circuit has refused to graft the exhaustion
5 requirement onto Section 1782. That would force litigants to
6 seek information through foreign or international tribunals
7 before requesting discovery from the district court. And it's
8 the *Euromepa* case that is cited as support for that. So I
9 don't believe that that is a relevant point at all here, your
10 Honor.

11 Mr. Cardozo talks a little bit about, we have
12 competing experts. There are some clashes of the experts. But
13 we have no challenge and we have no dispute to the language of
14 the regulation or the contract. That is clear and that is in
15 the record. We also have both experts testifying as to what
16 that means. We also have the public authority issue, that the
17 regulation requires him to represent Interros before public
18 authorities. There has been no objection or challenge to that
19 testimony in paragraph 22 of Mr. Kulkov's report or in the
20 corresponding deposition testimony he gave on that issue.

21 So I think, your Honor, it's an either/or test. It's
22 not a conjunctive test. Rather, it is legal authority or the
23 ability. If we show either one, we have a right to the relief
24 we seek. And I'd rather not have the Court and we close our
25 eyes to the realities of the jurisprudence and just try and

1 seek an expedient way out that benefits Mr. Aliev because
2 Mr. Potanin has said, no, I'm not going to give you this
3 information right now. We are not advocating for him to go
4 immediately into detention. We think that there are other
5 levers that the Court can pull, monetary sanction, and then
6 after that there may be further increasing in the sanction to
7 compel compliance. And we think that the relief we are
8 requesting is warranted here.

9 THE COURT: Thank you.

10 MR. GEERCKEN: Thank you, your Honor.

11 THE COURT: Just a question, Mr. Cardozo: Do you
12 agree with counsel that legal authority or ability is required,
13 one or the other?

14 MR. CARDOZO: No, I do not, your Honor, because you
15 can have every legal authority in the world, but if there is no
16 ability to execute on that legal authority, then someone can be
17 in the slammer forever because he has the theoretical right to
18 do something that he can't -- there's no one to dispute that he
19 can do.

20 So this theory is great. But let's think -- and you
21 suggested in your January opinion. If you order him to produce
22 these documents and he does not and you enter a contempt
23 finding, and then we're going to have a hearing on contempt,
24 where the burden of proof is a different one, how can you find
25 that you have an increasing set of sanctions or jail or

1 whatever it would be, when there's nothing more he can do?
2 That's not what the law is. I don't agree with that.

3 The other point I just wanted to make, as far as a
4 pending Russian proceeding, is that the Second Circuit in the
5 *Shcherbakovskiy* case does say that the respondent in a -- it
6 wasn't a 1782 proceeding -- but if there's a way for the person
7 who is actually seeking the documents to get the documents,
8 then that should be step one.

9 Now, I don't know whether Mrs. Potanina can get the
10 documents in Russia or not. I'm not suggesting I do. But
11 there's no way to do it.

12 And the final thing I'd like to say is, I think
13 Mr. Geercken misspoke with respect to the disagreement on
14 experts. Our expert said, if he was asked by Interros to
15 represent them before public authorities, then he has a right
16 to get the document to represent him before public authorities.
17 But he has not been asked to represent them before public
18 authorities. He has never been asked to represent them before
19 public authorities. And so our expert says, therefore, he is
20 not entitled to these documents.

21 THE COURT: But that's a difference between the two
22 experts.

23 MR. CARDOZO: That's right. But I just take issue
24 with the question that our expert concedes. Because I think
25 we're back to the same issue as to, has he been asked.

1 I thank you, your Honor, for your time.

2 THE COURT: Anything else?

3 MR. GEERCKEN: Your Honor, just on the either/or test,
4 I think this Viva case that we cited, 2009, WL 529224 (Southern
5 District February 17, 2009), addresses that. I think there are
6 our cases that we've cited.

7 THE COURT: Thank you.

8 MR. CARDOZO: I just again cite the Denny Chin case
9 that we've discussed with you, your Honor.

10 THE COURT: All right, counsel. Thank you so much.
11 Reserved.

12 MR. GEERCKEN: Thank you, your Honor.

13 THE COURT: Thank you for being so prompt.

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